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SUPREME COURT OF VIRGINIA

APR 13 1978

RICHMOND, VIRGINIA

IN THE
Supreme Court of Virginia

AT RICHMOND

RECORD NO. 77-1400

RECORD NO. 77-1401

RALPH E. PRESTON,
Appellant,

v.

CAROLE W. LAND
and
REGINALD L. WATKINS,
Appellees.

JOINT APPENDIX

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VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

CAROLE W. LAND, :

Plaintiff, :

v. :

RALPH E. PRESTON, :

Defendant. :

THIRD AMENDED MOTION FOR JUDGMENT

COMES NOW the plaintiff and states for her Motion for Judgment as follows:

1. That the plaintiff, until April 15, 1975, was a member in good standing of the Commodore Country Club, by virtue of her then husband's membership.

2. That at all times your plaintiff has conducted herself in a civil, virtuous and proper manner.

3. That defendant, Ralph E. Preston, (hereinafter called Preston), did file or cause to be filed with the Commodore Country Club (hereinafter called the Club), and its Directors, a complaint and signed affidavit alleging that the plaintiff on or about Tuesday, March 8, 1975, was guilty of misconduct on the Club premises, that she had behaved in a rude, uncivil and obnoxious manner toward him, and specifically that the plaintiff had grabbed and pulled him around, tearing his garment in the process.

4. That the allegations in the complaint referred to in Paragraph 3 above were false and malicious, and that defendant, Preston, knew or should have known, that they

were false and malicious.

5. That defendant, Preston, in and by his statements intended to charge and did charge the plaintiff with socially unacceptable and rude conduct and did, by his charges made known to the Board of Directors of the Club, publish these accusations to third parties.

6. That the Board of Directors of the Commodore Country Club, as a result of receiving the complaint and signed affidavit of the defendant, Preston, sent a letter to plaintiff requesting plaintiff's appearance before the Board of Directors of the Club on or about April 15, 1975 to "explain her behavior".

7. That the members of the said Board of Directors present at a meeting held on or about April 15, 1975 expelled the plaintiff from the Club for "misconduct" on her part.

8. That said expulsion from the said Club was published and generally made known amongst Club members in derogation of the character of the plaintiff and causing irreparable injury to her reputation.

9. That the aforementioned conduct on the part of defendant, Preston, constitutes libel and slander and that as a direct and proximate result of defendant, Preston's, statements to the Board of Directors of the said Club, plaintiff has suffered grievous damage and irreparable injury to her reputation in the community as

well as loss of Club privileges and adverse notoriety among other members of the Commodore Country Club.

WHEREFORE, plaintiff moves the Court for judgment against defendant Ralph E. Preston for the sum of Thirty-five Thousand Dollars (\$35,000.00) as compensatory damages for libel and slander and a further sum of Ten Thousand Dollars (\$10,000.00) as punitive damages, together with her costs and attorney's fees expended in this proceeding.

Filed on April 6, 1976.

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

REGINALD L. WATKINS,	:
Plaintiff,	:
v.	:
RALPH E. PRESTON,	:
Defendant.	:

THIRD AMENDED MOTION FOR JUDGMENT

COMES NOW the plaintiff and state for his Motion for Judgment as follows:

1. That the plaintiff, until April 15, 1975, was a member in good standing of the Commodore Country Club.
2. That at all times your plaintiff has conducted himself in a civil, virtuous and proper manner.
3. That defendant, Ralph E. Preston, (hereinafter called Preston) did file or cause to be filed, with the Commodore Country Club (hereinafter called the Club), and its Directors, a complaint and signed affidavit alleging

that the plaintiff on or about Tuesday, March 8, 1975, was guilty of misconduct on the Club premises, that he had behaved in a rude and uncivil and obnoxious manner toward him, specifically that the plaintiff had used abusive, insulting and profane language toward him, thereby instigating a fight.

4. That the allegations in the complaint referred to in Paragraph 3 above were false and malicious, and that defendant Preston knew or should have known, that they were false and malicious.

5. That the defendant Preston in and by his statements intended to charge and did charge the plaintiff with socially unacceptable and rude conduct, and did, by his charges made known to the Board of Directors of the Club, publish these accusations to third parties.

6. That the Board of Directors of the Commodore Country Club, as a result of receiving the complaint and signed affidavit of the defendant Preston, sent a letter to plaintiff requesting plaintiff's appearance before the Board of Directors of the Club on or about April 15, 1975 to "explain his behavior".

7. That the members of the said Board of Directors present at a meeting held on or about April 15, 1975 expelled the plaintiff from the Club for "misconduct" on his part.

8. That said expulsion from the said Club was published and generally made known amongst Club members in

derogation of the character of the plaintiff and causing irreparable injury to his reputation.

9. That the aforementioned conduct on the part of defendant Preston constitutes libel and slander and that as a direct and proximate result of defendant Preston's statements to the Board of Directors of the said Club plaintiff has suffered grievous damage and irreparable injury to his reputation in the community as well as loss of Club privileges and adverse notoriety among other members of the Commodore Country Club.

WHEREFORE, plaintiff moves the Court for judgment against defendant Ralph E. Preston for the sum of Thirty-five Thousand Dollars (\$35,000.00) as compensatory damages for libel and slander and a further sum of Ten Thousand Dollars (\$10,000.00) as punitive damages, together with his costs and attorney's fees expended in this proceeding.

Filed on April 6, 1976.

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

REGINALD L. WATKINS,

CAROLE W. LAND,

Plaintiff,

Plaintiff,

v.

v.

RALPH E. PRESTON,

RALPH E. PRESTON,

Defendant.

Defendant.

ORDER

The parties, by their counsel, came to be heard before

the Court on May 13, 1977 upon the Motions of the Defendant that the verdict rendered by the jury be set aside, or, in the alternative, that the Defendant be granted a new trial, and was argued by counsel;

And upon consideration of the Memoranda of Law submitted by counsel, the arguments of counsel, and applicable law, it is the opinion of the Court that the verdict of the jury may not be set aside for any of the reasons set forth by the Defendant, and, therefore, it is

ORDERED that the aforesaid Motions of the Defendant be, and they hereby are, denied, and the Judgment Order entered in this cause on January 27, 1977 shall stand,

And it further appearing that the Defendant should be properly identified as Ralph E. Preston, vice Ralph A. Preston, Jr.,

It is ORDERED by the Court that the above-styled action be corrected to read Reginald L. Watkins vs. Ralph E. Preston, Docket No. L75-1866.

And there being nothing further to be done in this cause, it is hereby ORDERED that the same be removed from the docket.

Entered on June 3, 1977.

ORDER OF THE SUPREME COURT

It appearing to the court that the orders entered on June 3, 1977, by the Circuit Court of the City of Norfolk in certain motions for judgment then therein depending,

under the short styles of: Reginald L. Watkins v. Ralph E. Preston, Jr., et al. (Case No. L75-1866) and Carole W. Land v. Ralph E. Preston, et al. (Case No. L75-1867) fail to enter judgments on the verdicts of the jury and are not final judgments.

It is therefore adjudged and ordered that these cases be, and the same are hereby, remanded to the said Circuit Court for entry of judgments on the jury verdicts.

Which is ordered to be certified to the said Circuit Court.

Entered on February 28, 1978.

ORDER OF THE CIRCUIT COURT OF NORFOLK

The parties, by their counsel came to be heard before the Court on May 13, 1977 upon the Motions of the Defendant that the verdict rendered by the Jury be set aside, or, in the alternative, that the defendant be granted a new trial, and was argued by counsel;

And upon consideration of the Memoranda of Law submitted by counsel, the arguments of counsel, and applicable law, it is the opinion of the Court that the verdict of the jury may not be set aside for any of the reasons set forth by the defendant, and, therefore, it is

ORDERED that the aforesaid motions of the defendant, be, and they hereby are, denied, and the judgment order entered in this cause on January 27, 1977, shall stand.

Whereupon, it is considered and ordered by the Court

that in law action #L75-1866 the said plaintiff Reginald L. Watkins recover of and have judgment against the said defendant Ralph E. Preston in the sum of Five Thousand Dollars (\$5,000.00) with interest thereon at the rate of eight percentum from the 27th day of January, 1977, until paid, together with his costs about his suit herein expended.

It is further ordered by the court that in law action #L75-1867 the said plaintiff Carole W. Land recover of and have judgment against the said defendant Ralph A. Preston in the sum of Two Thousand Five Hundred Dollars (\$2,500.00) with interest thereon at the rate of eight percentum from the 27th day of January, 1977, until paid, together with her costs about her suit herein expended.

Entered on March 6, 1978.

ASSIGNMENTS OF ERROR

1. The Court committed prejudicial error in granting Instruction Number Three offered by Land and Watkins since this instruction did not require Land and Watkins to prove malice which is required when the occasion is qualifiedly privileged.

2. The Court erred in not striking Land's and Watkins' evidence at the close of Land's and Watkins' evidence as there was insufficient evidence to go to the jury that Preston slandered Land or Watkins under the facts and circumstances of this case.

3. The Court erred in not striking Land's and Watkins'

evidence at the close of all the evidence or in the alternative, the Court erred in not setting aside the jury verdict and entering final judgment for Preston since as a matter of law there was insufficient evidence to support the jury verdict or to support a verdict for slander where the occasion was qualifiedly privileged, and there was no malice.

Filed on September 29, 1976.

INSTRUCTION NUMBER THREE

The Court instructs the jury that words falsely spoken to others about a person that he or she struck another person in a public gathering or grabbed him in a vehement manner, are slanderous from their very nature and without further proof thereof. The law presumes damages to result from their publication, and in order to recover compensatory damages, it is not necessary for the plaintiff to prove any personal spite or ill-will on the part of the defendant, Mr. Preston, nor is it necessary to prove that he or she suffered either actual or pecuniary loss.

INSTRUCTION NUMBER FIFTEEN

A communication, verbal or otherwise, made in good faith on a subject matter in which the person communicating the same has an interest, or owes a duty, legal, moral or social, is privileged if made to a person having a corresponding interest or duty.

As all of the persons present at the meeting of the Board of Directors meeting of the Fraternal Order of Police,

Commodore Country Club were interested in or had a legal or moral duty in the matter at hand, Ralph E. Preston had a right and owed to those present the duty in good faith to make any statement or statements that were pertinent, informative of or relevant to the matter and subject under discussion and consideration, and unless you believe from preponderance of the evidence that Ralph E. Preston made such statements with malice as defined in another instruction of the Court, you shall find your verdict in favor of the Defendant.

MOTION TO STRIKE AND COURT'S RULING

MR. PENNINGTON: Judge, I move to strike the plaintiffs' evidence. The first point is that the gist of this action is the alleged defamatory remarks made to the board of directors of the Commodore Country Club. There has been no evidence as to what those remarks were. Mr. Watkins even testified that as far as he knew that the only complaint against him was that he had added to the confusion which is not in conformity with the pleadings.

The plaintiffs' case can rise no higher than their own evidence it was a privileged communication. There's absolutely no evidence of any malice involved and I would state to the court that at this point, the evidence should be stricken.

THE COURT: I think it's a prima facie case. We've got a situation where these witnesses testified where Mr. Preston initiated and something was said that resulted

these plaintiffs being expelled from and as the expression goes, kicked out of the Commodore Country Club. I think then it was talk that these plaintiffs had been kicked out of the Commodore Country Club. I think that's something no normal person would like to have happen to them, to be kicked out of a social club, have people discuss them and go around saying, "Oh, Joe Pennington got kicked out of the Harbor Club." How about that? I think it's a prima facie case.

MR. PENNINGTON: I can argue with you. One second. It's not that they got kicked out. Supposedly, defamatory remarks were made about them. By their own evidence, other complaints have been made and we don't know on what basis they were kicked out.

THE COURT: That goes to damages, doesn't it? They were putting their reputation on the line and if you want to chisel on it, it's your right and duty as counsel for the defendant to do so but that's a jury issue as to what their reputation is worth. It may be the highest, it may not. Bring in the jury, please, sir.

OBJECTIONS TO INSTRUCTION THREE

MR. PENNINGTON: The defendant notes his exception to Instruction No. 3 on the grounds that it's an improper statement of the law as applied to the evidence in this case. The evidence in this case clearly shows that a qualified privilege situation was involved and

when such a situation is presented in the evidence, it nullifies the presumption of malice in law and requires a showing of expressed malice or malice. In fact, 50 AmJur 2d Section 199, Page 706, Footnote 10 lists 29 jurisdictions which agree with this statement.

JURY VERDICT

THE COURT: As to the case of Carole W. Land, the verdict is in favor of the plaintiff for the sum of \$2500 signed by Mr. Gray, the foreman. In the case of Reginald L. Watkins against Ralph Preston, the verdict is in favor of the plaintiff for the sum of \$5,000 and signed by the foreman, Mr. Gray. Howard R. Gray, Jr. So say you all?

* * * * *

JAMES M. AMBURN, called as a witness on behalf of the plaintiffs, having been first duly sworn, was examined and testified as follows:
(Transcript, Page 2)

DIRECT EXAMINATION

BY MR. INMAN:

* * * *

Q Would you please state your name?

A James M. Amburn.

Q Where do you reside?

A 421 Corapeake Drive in Chesapeake, Virginia.

Q Are you a member of the Commodore Country Club?

A Yes, I am.

Q Do you hold any offices in that organization?

A I did prior to three months ago, sir.

Q In the year 1975, what, if any offices, did you hold?

A Secretary of Commodore Country Club board.

Q Does that make you a member of the board of directors?

A Yes.

Q Are you acquainted with Mr. Watkins?

A Yes, sir.

Q Are you acquainted with Mrs. Watkins, formerly Mrs. Land?

1 (Transcript, Page 3)
A Not acquainted, sir. I met her a couple of
2 times at the club prior to that.

3 THE COURT: Mr. Amburn, you can just sit back.
4 That's a right sensitive mike.

5
6 BY MR. INMAN:

7 Q How long have you known Mr. Watkins?

8 A Approximately five or six years.

9 Q Have you had occasion to be with him on any
10 social occasions at the club?

11 A I've been with Mr. Watkins at the club with
12 his former wife, deceased now that I met on two or three
13 different occasions with Mr. and Mrs. Traylor, Jimmy and Helen
14 Traylor.

15 Q Have you ever been with Mr. Watkins on social
16 occasions other than at the Commodore Country Club that you
17 can recall?

18 A No, sir.

19 Q On any of those occasions when you were with
20 Mr. Watkins at the Commodore Club, how would you characterize
21 his conduct?

22 A Excellent, as far as I'm concerned on the
23 occasions I've been with him observing him and I hate to keep
24 referring to his prior wife but knowing the hardship he went
25 through with her, excellent.

-14-

1 (Transcript, Page 4)

2 Q Have you ever witnessed him behave in a rude,
obnoxious manner?

3 A No, I haven't.

4 Q Were you present at the board meeting of the
5 Commodore Country Club on March 25, 1975?

6 A Yes, I was.

7 Q Were there any complaints about members to be
8 considered that evening?

9 A Yes, there was. I have a copy of the minutes
10 of that night, sir.

11 Q Well, with reference to the two plaintiffs in
12 this case, Mr. Watkins and then Mrs. Land, were there any
13 complaints made on that night about them?

14 A Yes.

15 Q Who made the complaint?

16 A Mr. Preston.

17 Q Was it Mr. Ralph A. Preston who is the gentle-
18 man seated at the table with Mr. Pennington?

19 A Yes.

20 Q What was the complaint that was made about the
21 conduct of Mrs. Watkins, then Mrs. Land to the best --

22 A The complaint that I overheard -- I did not
23 note them because I do not take dictation. There was no
24 recording of this. Mr. Loren Miller, the president of the
25 Commodore Country Club did the questioning and pursuing of

(Transcript, Page 5)

1 the alleged charges. If my memory is correct, it's been a
2 long time, Mr. Preston had waited until the club closed -- if
3 I'm correct -- to speak to the club manager, Mr. Ruscito.

4 THE COURT: You mean the night of the affair,
5 not the directors --

6 THE WITNESS: Yes, the night of the affair.

7 THE COURT: I understand.

8 A (Continuing) He was asked to come to the
9 board of directors which he did. There was complaints of
10 being shoved or alapped. I don't know this. If I remember
11 correctly, they were charged against Mrs. Carole Land at
12 that time.

13
14 BY MR. INMAN:

15 Q All right. Now, with regard to Mr. Watkins,
16 do you recall what complaint was made by Mr. Preston about
17 the conduct of Mr. Watkins, if any?

18 A It was something to the effect that he had allegedly
19 been slapped or pushed or shoved against him, that Mr. Watkins
20 came over and grabbed a hold of him or something to that nature.

21 THE COURT: Grabbed hold of Mr. Preston?

22 THE WITNESS: Grabbed hold of Mr. Preston, yes,
23 sir.

24 BY MR. INMAN:

25 Q What was your personal reaction to the charges

1 (Transcript, Page 6)
at that time as you sat on that board?

2 A Shocked.

3 Q Do you know of any meeting between Mr. Preston
4 and Mr. Ruscito who you referred to as the club manager about
5 this incident before the board meeting?

6 A The only thing I know, sir, is I stated that
7 we were told that Mr. Preston waited until either the club
8 closed or later on during the night until he could see Mr.
9 Ruscito, the club manager at that time about the incident that
10 happened in the Viking Room.

11 Q The paper you were referring to, are they
12 minutes of the meeting?

13 A Yes, sir.

14 Q You indicated that there is nothing recorded
15 on those minutes with regard to specifics of the complaints
16 made?

17 A No, sir.

18 Q What do the minutes say with regard to this
19 complaint?

20 A I have several complaints by club members
21 against club members. As to those complaints, Ralph Preston
22 Card No. 3518, March, 1976 against a Carole Land and Reggie
23 Watkins. There were several other charges. Not charges, but
24 other complaints about different members not concerning this.

25 Q All right. Now, subsequent to that meeting

(Transcript, Page 7)

1 of the board of directors, was there another meeting held to
2 consider any further of the complaints made against Mr.
3 Watkins and Mrs. Watkins?

4 A At the end of that meeting, sir, there was
5 a form letter to be made to those members that the complaints
6 are against and inform them to be present at the April 15th
7 meeting if they feel they have to defend any accusations made
8 against them. I understand this was done by the club manager,
9 Mr. Ruscito.

10 Q Were you at the April 15th meeting?

11 A Yes, I was.

12 Q Do you recall whether or not Mr. Watkins and
13 Mrs. Watkins, then Mrs. Land, appeared before the board?

14 A They did, sir.

15 Q Subsequent to their appearance, did the board
16 take a vote on what disposition to make of the complaint?

17 A No, not prior to that, no.

18 Q When did the board take action on the com-
19 plaint?

20 A After they had received a letter and came in,
21 both of them, Mr. Preston and Mr. and Mrs. Watkins. Then the
22 board on the April 15th meeting, motion was made for the
23 following names to be suspended from membership and its use
24 of the Commodore Country Club as of April the 15th, 1975,
25 Carole Land and Reggie Watkins.

(Transcript, Page 8)

1 Q Was the reason for their suspension from
2 membership the complaint that we've been talking about by
3 Mr. Preston?

4 A Yes, that and Mr. Ruscito, if my memory serves
5 me again, correctly, there had been several little minor com-
6 plaints of little incidents that happened that we were not
7 notified of or didn't know anything about.

* * * *

8 MR. INMAN: I want to have these minutes
9 entered into evidence.

10 THE COURT: I don't see the need of that.
11 It mentions other people that were --

12 MR. INMAN: True.

13 THE COURT: -- other personalities other than
14 complaints about --

15 MR. INMAN: I was on the fence as to whether
16 to have them -- I think it's in the record. I have
17 no further questions. Answer Mr. Pennington's
18 questions, please.

-- -- -- --

19 (Transcript, Page 8)

CROSS EXAMINATION

20 BY MR. PENNINGTON:

* * * *

21 Q Mr. Amburn, if I understand this correctly,
22 it is your testimony that Mr. Ruscito, who was then the club
23 manager, asked Mr. Preston to come before the board?

24 A That was what we were told, sir, that
25

(Transcript, Page 9)

Mr. Preston approached Mr. Ruscito as to what he could do or what can be done about the incident and as far as my memory serves me, was asked to appear before the board and tell the board of directors of the incident.

Q How many members of the board were there at that time?

A Elliott Miller, president, Robbie Ambs, treasurer, of course, Jim Amburn, secretary, Eddie Caminati, H. A. Gensler, J. Shelton.

Q Following that meeting notices were sent to the plaintiffs to appear and state their side of the case; is that correct?

A I did not see them sent but they did return. I'm sure they were.

Q At that meeting on April the 15th -- is that correct?

A Yes, that's correct.

Q April the 15th, the plaintiffs were allowed to appear and state their side?

A Correct.

Q Is it your testimony that there were other complaints stated?

MR. INMAN: I object to the question. It's irrelevant to the present hearing.

MR. PENNINGTON: Well, Judge, in answer to a

(Transcript, Page 10)

1 question by the plaintiffs' counsel, plaintiffs'
2 witness went into --

3 THE COURT: Other parties, I think the door
4 is opened. I overrule the objection.

5 MR. INMAN: If Your Honor please, the
6 question which I asked, the answer given in that
7 respect was unresponsive to my question.

8 THE COURT: I know it but he's got a right
9 to examine. He knows the witness did.

10 MR. INMAN: All right. Thank you.

11

12 BY MR. PENNINGTON:

13 Q Sir, was it your testimony that Mr. Ruscito
14 informed the board of other complaints regarding the actions
15 of these two people?

16 A Yes, there were several complaints that Mr.
17 Ruscito informed us that had been brought to his attention
18 that we knew nothing of prior to that night.

19 Q This was not the only complaint, there
20 were several other complaints against other people being
21 considered; is that not correct?

22 THE COURT: That's what he said.

23 A (Continuing) Different, yes, there was.

24 BY MR. PENNINGTON:

25 Q All right. Then the board took a vote on

(Transcript, Page 11)

whether or not to expel these people among others?

A Right.

Q Is it not a fact that all the board members
voted to expel these two people?

A Correct.

Q You being one of them?

A Yes.

* * * *

MR. PENNINGTON: That's all I have. Thank you,
sir.

THE COURT: All right, sir, anything further,
Mr. Inman?

MR. INMAN: I have nothing further.

THE COURT: All right, thank you, sir. Next
witness.

MR. INMAN: I'm going to call Carole Watkins.

- - - - -

CAROLE W. LAND WATKINS, a plaintiff, called as a
witness on her own behalf, having been first duly sworn, was
examined and testified as follows:

DIRECT EXAMINATION

BY MR. INMAN:

* * * *

Q Would you please state your name?

A Carole Watkins.

Q What is your present address?

A 200 Coventry Road in Virginia Beach.

(Transcript, Page 12)

1 Q Are you employed in any manner?

2 A My husband and I have just started a new
3 company.

4 Q How long ago was that?

5 A It's been about five months.

6 Q What's the nature of that business?

7 A It's a trucking company, local freight.

8 Q Local freight?

9 A Yes, sir, transportation.

10 Q At the time of the incident in question this

11 is March 8th, 1975, were you a member of the Commodore Country

12 Club?

13 A Yes.

14 Q What was your membership status?

15 A Member in good standing.

16 Q How long had you been a member of the
17 Commodore Country Club?

18 A About 11 years.

19 Q At the time of joining the club, were there
20 any fees to be paid?

21 A Yes. You had to pay an initiation fee. I
22 can't remember what it was. Maybe \$250 plus your regular fee
23 which was, I think, 125 cause I renewed mine, yes.

24 Q Directing your attention to the evening of
25 March 8th, 1975, what did you do that evening?

(Transcript, Page 13)

1 A We went out to dinner with Mr. and Mrs.
2 Davis and after we left The Chalet, we went to the club which
3 was the usual thing, to dance and I guess we got there about
4 -- the music had started to play and I think it starts at
5 10:00, so they had started the first set and we got there
6 shortly after that and we saw four or five empty seats on the
7 end of the bar and we went over and sat down.

8 Q Now, exactly where did you go to eat?

9 A The Chalet.

10 Q Did you have anything to drink there?

11 A We had a glass of wine before dinner.

12 Q After you had dinner you went over to the
13 Commodore Country Club?

14 A Yes.

15 Q Approximately what time did you arrive, do you
16 recall?

17 A It had to be between 10:00 and 10:30.

18 Q Why?

19 A Because the band starts to play and they just
20 started into their first set.

21 Q What did you do when you first arrived at the
22 Commodore Country Club? What's the first thing you did other
23 than hanging your coat up or something like that?

24 A Went back to the back and found our seats and
25 put our things on the counter and Dee, who was the bartender

(Transcript, Page 14)

1 at the time came up because we knew her and she asked what we'd
2 like to have to drink and she fixed us a drink.

3 Q I want to show you a diagram of --

4 THE COURT: Why don't you put it --

5 MR. INMAN: I'll try to get it so everybody
6 can see.

7
8 BY MR. INMAN:

9 Q Can you turn your chair around a little bit?
10 If I tell you that this is designated as the entrance to this
11 area of the Commodore Country Club, does this diagram fairly
12 represent what it looks like in your opinion?

13 A Yes.

14 Q Now, when you came in, where did you take your
15 seats?

16 A We sat right over here. There are approxi-
17 mately eight seats here so I was sitting right here. This
18 seat was empty and I was sitting there.

19 Q Would you state what number is designated?

20 A No. 2.

21 Q Seat No. 2. That's where you sat?

22 A Yes.

23 Q Who was in your party that evening?

24 A My husband and Mr. and Mrs. Davis.

25 Q Well, did they sit at the bar or did they sit

(Transcript, Page 15)
somewhere else?

1 A We occupied these four seats here.

2 Q Would you state what number seats?

3 A 2, 3, 4 and 5.

4 Q Was seat No. 1 occupied?

5 A No, that was empty.

6 MR. INMAN: So you members of the jury can see
7 the chart.

8
9
10 BY MR. INMAN:

11 Q All right. You say you got a drink when you
12 first went in?

13 A Yes.

14 Q What's the next thing that you did?

15 A We sat there and we talked for a little while
16 but we had hardly finished our drink and a good piece -- one
17 of our favorite songs came on so all four of us got up and went
18 to dance.

19 Q Subsequent to dancing, what happened, if any-
20 thing?

21 A After we danced that whole set and we came
22 back to our seats, Phyllis and I did -- Mrs. Davis. Reggie
23 was a little bit behind me and I believe Mr. Davis had gone
24 to the rest room.

25 THE COURT: Who's Reggie?

(Transcript, Page 16)

THE WITNESS: I'm sorry. Mr. Watkins.

A (Continuing) Okay. I was in front of
Phyllis Davis and I walked up --

BY MR. INMAN:

Q Let me ask you to stop right there so you can
indicate on the chart. Where is the area where you would be
dancing?

A Over here.

Q What was your route when you left the dance
floor?

A We had to walk through here. There were an
awful lot of people coming in. Dinner was just finishing.
We came through here and had to go through there.

Q Are there any obstacles in this area which
are not indicated?

A Yes, sir, there are a lot of tables and chairs
all in here.

Q Are there also tables in each of these indi-
cated --

A Yes, these are all booths and there are tables
all over here and both over here. This area is very small.
There's barely room to walk.

Q Indicate with your finger what route you took.

(Transcript, Page 17)

1 A I came from here, walked straight down here
2 and went right to my seat.

3 Q What happened at that time? You said Mrs.
4 Davis was following behind you?

5 A She was coming right behind me and I walked
6 up to a Mr. Lewis that I had known from the club because I
7 always took the children to play bingo on Wednesday nights
8 and he was standing right where that empty seat is leaning
9 on the bar.

10 Q Which number is that?

11 A 1.

12 Q Okay.

13 A Mr. Preston was sitting in my seat and I
14 walked up and I did put my hand on Mr. Preston's arm and
15 leaned around him and spoke to Mr. Lewis and said, "Hello,
16 how are you," and Mr. Preston whirled my hand off of his arm
17 and said, "Get your God damn hands off of me, lady, and go
18 pick on someone your own size." All I know is that I took a
19 step backward and I just stood there with my mouth hanging
20 open and Reggie was right behind me and he said, "Are you all
21 right," and I said, "Yes," and he told me to sit down because
22 Phyllis had to step back because the way I was shoved back,
23 he told me to sit down in that seat No. 3.

24 Q Who told you?

25 A Reggie told me to sit down. "Are you all

(Transcript, Page 18)

1 right," and I said, "Yes." He turned around and said to
2 Mr. Preston, "Nobody talks to my lady like a dog. If you want
3 to talk to somebody like a dog, talk to me and if my lady
4 offended you in any way, I offer her apologies and mine."

5 By this time, I was slightly -- I think it's called
6 hysterical and I remember that Reggie shook his hand and it
7 was over and Dee, the bartender, just looked at me and said,
8 "Carole, are you okay," and she saw the mascara running down
9 my face and there was a bathroom in the back of the kitchen
10 and she showed Phyllis and myself where to go where nobody
11 could see my face and I went back there and fixed my face and
12 came back out and everything was over, I thought.

13 Q What's the next time, if any time, you heard
14 about the incident again or it came up again?

15 A Well, it was shortly after that -- I didn't
16 hear a word cause Reggie and I went back to the club, I think
17 the next weekend. I don't know how many weeks were in --
18 maybe two weeks in between that incident and the time that I
19 received a registered letter from the country club. The
20 children called me at work and they had signed it and I said,
21 "Open it and read it. I can't imagine why I'm getting a
22 letter," and they opened it and read it to me on the phone.
23 I was at work and they said, "Mom, you've got to go before
24 the board to explain your bad conduct," and I could not
25 believe it. I didn't even know what conduct. I had forgotten

(Transcript, Page 19)

1 about this. That didn't even come to mind because it was
2 over so quickly.

3 Q Subsequent to receiving that letter, did you
4 appear at the board meeting of the Commodore Club?

5 A After receiving the letter?

6 Q Yes.

7 A Yes, we went. There were four of us there
8 and we went in that night and I asked, "Does anybody know
9 why we're here? What's wrong?" There was a gentleman sitting
10 at the bar, a Mr. Shelton -- or Dr. Shelton, he said and he
11 was a member of the board. He said he didn't even know why
12 he was there. He had been called and told to appear and he
13 was sitting out there. There were four people, Reggie, myself
14 and two other members. He was sitting with us while I guess
15 the first part of the board meeting was going on. He was
16 called in when we started coming on because he didn't even
17 know why he was there and neither did I until we walked in.

18 Q Were you told why you were there?

19 A I was told that I had torn Mr. Preston's
20 clothing and I asked who was Mr. Preston, I didn't even know
21 this gentleman's name and they said the man at the club
22 et cetera, et cetera and that I had torn his clothing and he
23 had lodged this complaint and I asked, "Well, where is he?
24 Where is the man who's accused me?" They said they had
25 listened to his complaints and this wasn't a jury and wasn't

(Transcript, Page 20)

1 anything other than they wanted to hear my side of what
2 happened and I said, "Fine, then I'll tell you my side."
3 Of course, they asked Reggie and we left.

4 Q Did you ever receive any further communication
5 from the club after that appearance?

6 A Yes, another registered letter telling me
7 that I had been suspended and all my privileges had been
8 revoked and I couldn't believe it. I still don't.

9 Q I show you a letter dated April 16th, 1975 on
10 the letterhead of the Commodore Country Club and ask you if
11 you recognize that letter?

12 A Yes.

13 Q What's the nature of that letter?

14 A "Dear Mrs. Land, by the direction of the board
15 of directors of the Commodore Country Club your membership
16 and use of club facilities is suspended as of this day,
17 April 15th, 1975," signed by Mr. Miller.

18 Q Do you recall receiving that letter?

19 A Yes. I was at work. My children received it.
20 Once again, having never dreamed that anything would come of
21 this, whatever it was, I asked the children to open it and
22 read it and they read it.

23 MR. INMAN: I ask this to be marked.

24 THE COURT: Plaintiffs' Exhibit 1.

25 (Letter dated April 16th, 1975, to Mrs. Watkins was

(Transcript, Page 21)

marked as Plaintiff's Exhibit No. 1.)

BY MR. INMAN:

Q What effect, if any, did this experience, having received this letter -- relating back to the cause of the letter, what effect, if any, did this have on you emotionally?

A The day I got the letter, after I managed to compose myself after the children read it and we hung up and I got myself together, I got on the phone and called Paul Ruscito, who is the manager of the club and asked him what in the world had happened. Why had they done this to us and all he could say was, "Carole, I'm sorry. There's nothing I can do. I'm sorry. I don't know what to say." I don't think I've ever been so totally embarrassed in front of my friends and my children.

Q Have any other people, any acquaintances of yours ever inquired of you about the lack of your presence at the Commodore Country Club?

A Have any, you say?

Q Have any?

A Oh, yes. That was the only place I ever went.

Q How many people?

A Oh, that's so hard to say. How can I answer that? All the people that we knew.

Transcript, Page 22)

1 Q Do you remember any names?

2 A The Mortons. The Davises who we were with
3 that night didn't even know this had happened. They wanted
4 to know. It was so shocking. Marilyn, who was away. We saw
5 her at the Lone Pine because that's the only place we went
6 after that which is by our house asked us where in the world
7 we had been and she said she missed seeing us there because
8 we went so much.

9 Q What did you tell these people?

10 A I told them we had been suspended and they
11 said, "Why," and then the rumors started flying.

12 Q How often did you go to the club while you were
13 a member?

14 A Well, I took the children to play bingo on
15 Wednesday nights. Reggie and I went dancing every Saturday
16 night and sometimes Friday nights. We went to the buffet on
17 Sundays and a lot of times we'd leave work for lunch and try
18 to catch the buffet at the club all during the week. We went
19 there all the time.

20 Q On an average, how many times per week?

21 A At least four or five times a week and then
22 when the pool is open, we always went. That's why I took the
23 children. That's where all their friends went.

24 Q Have you ever received an apology of any sort
25 from Mr. Preston?

(Transcript, Page 23)

1 A. No.

* * * *

2 MR. INMAN: I have no further questions.

3 Please answer Mr. Pennington.

4 - - - - -

5 CROSS EXAMINATION

6 BY MR. PENNINGTON:

* * * *

7 Q Now, Mrs. Watkins, you said you were a member
8 of the FOP; is that correct?

9 A. That's correct.

10 Q Isn't it true you were only a member by
11 virtue of your husband's membership?12 A. No. I renewed mine and gave Paul Ruscito a
13 check personally. He told me there was no problem and I paid
14 him \$125 to renew the membership and my children's.15 Q You had formerly been a member by virtue of
16 your husband's membership; is that correct?

17 A. Correct.

18 Q Your prior husband?

19 A. That's correct.

20 Q How long have you been divorced at this time?

21 A. Now, which time? How long?

22 Q March the 8th.

23 A. I was not divorced. I was legally separated.

24 Q How long had you been separated?

25 A. A year.

(Transcript, Page 24)

1 Q When did you pay this \$125 to Mr. Ruscito?

2 A When the dues were due in April of the year
3 this happened because membership dues were coming up right
4 then. What would it be? I don't know the date. I have my
5 check.

6 Q Pardon me?

7 A I have a check that renewed my membership for
8 that year. I understand, also, my ex-husband has a check.
9 He renewed the membership too.

10 Q So you were a member then?

11 A Yes.

12 Q Mr. Preston was a member?

13 A Yes.

14 Q Had you ever met Mr. Preston before?

15 A No.

16 Q Do you recall seeing him before?

17 A No.

18 Q Have you seen him since this incident?

19 A Yes. The next weekend he was at the same
20 dance we were in the Viking Room on Saturday night.

21 Q You say you had been out to dinner that night?

22 A Yes.

23 Q Where was that?

24 A At the Chalet up in Haygood Shopping Center.

25 Q You had had one glass of wine?

(Transcript, Page 25)

1 A Right.

2 Q Nothing more?

3 A No.

4 Q What time did you get to the FOP? 10:00
5 o'clock?

6 A A little after because the music was playing.

7 Q Did you see Mr. Preston enter the club?

8 A No.

9 Q Approximately what time did this incident take
10 place?

11 A After the first set of music stopped, we went
12 to our seats. However long they play. What, 30 minutes? At
13 the end of that set, we left the dance floor.

14 Q So that would have made it about 10:30?

15 A Probably 10:30, quarter of 11:00.

16 Q Now, isn't it true, Mrs. Watkins, that you
17 came up to Mr. Preston and tried to push him out of your seat?

18 A No, sir. Why would I want to push Mr. Preston
19 out of my seat?

20 Q I'm asking you the questions, ma'am.

21 A I'm sorry. No. No, it's not.

22 Q You just went up there and he started pushing
23 you; is that what you said?

24 A No, that's not what I said. I said I put my
25 arm -- my hand on his arm and spoke to Mr. Lewis and he whirled

(Transcript, Page 26)

around and told me to get my God damn hands off of him.

THE COURT: Who is Mr. Lewis?

THE WITNESS: Mr. Lewis was the gentleman that I recognized. He was the one that I recognized from the bingo. He was always there giving out cards.

THE COURT: Was he sitting at the bar?

THE WITNESS: No, sir. He was standing at the end table talking to Mr. Preston. I assumed Mr. Preston was sitting in my seat waiting for a drink. My purse was sitting right there and my cigarettes and a half empty glass.

BY MR PENNINGTON:

Q How many people were in the bar?

A Oh, my word.. It was very crowded. Very crowded as always on a Saturday night.

Q So what did you do after Mr. Preston allegedly made this statement to you?

A Stood there and cried with my mouth hanging open and before I knew it, Reggie was right there asking if I was all right. I didn't do anything but just sit there on the next stool.

Q You just instantly burst into tears; didn't say a thing?

A I didn't instantly. I just started to cry.

(Transcript, Page 27)

1 I couldn't believe it. Why the man was cursing. Why he even
2 pushed me away.

3 Q Before I asked you if he pushed you and you
4 said, "No." Now, you say he pushed you.

5 A No, sir, I didn't say that.

6 Q Would you answer the question, please?

7 A Yes, sir. What is your question?

8 Q Did you say he pushed you?

9 A He threw my hands off of his arm.

10 Q Is that what you were referring to?

11 A Yes, which caused me to step back because
12 Mrs. Davis was right directly in back of me.

13 Q All right. You said nothing further to
14 Mr. Preston?

15 A Not a word.

16 Q Did he say anything further to you?

17 A No, not that I know of.

18 Q What happened then?

19 A Reggie came up to him and told him that nobody
20 talks to his lady like a dog and if he wanted to talk to some-
21 body like a dog, to talk to him and he said, "If my lady said
22 anything to offend you, we both apologize. I offer her
23 apologies and mine. We didn't come here to cause any trouble
24 and I don't want any trouble," and he shook the man's hand.

25 Q Where was Mr. Lewis during this time?

(Transcript, Page 28)

1 A Standing there watching all of it.

2 Q There was no words?

3 A Nothing.

4 Q Nothing between Mr. Lewis and Mr. Watkins?

5 A No. Mr. Watkins did ask him if he had any-
6 thing to say and he said, "No."

7 Q They shook hands?

8 A Yes, they did.

9 Q Was the lady you referred to as Dee there at
10 the time?

11 A Yes, yes. She was standing right there. She's
12 the one that had fixed us our first drink standing right there.
13 Now, there's a lot of commotion, you know, going on in the
14 club with the music. They had taken a break so the juke box
15 is on which is loud and there are a lot of people. I cannot
16 say that she was directly looking at me. Only when she looked
17 up and saw me crying and asked if I was all right. Other than
18 that, she was standing right there.

19 Q She showed you a rest room where you could
20 compose yourself?

21 A Yes.

22 Q Did Mr. Preston act angry --

23 A Yes.

24 Q -- after that?

25 A I can't say he acted angry. I thought it was

(Transcript, Page 29)

1 over. He just looked absolutely mean. What more can I say?

2 I just stood there with Reggie apologizing.

3 Q Looked mean?

4 A Yes.

5 Q You've never seen the man before?

6 A Never.

7 Q At this meeting you're talking about, did you
8 present your side of the story as you have today?

9 A Yes, exactly, but first I asked them why I
10 was here, who were they. I didn't even know any of them
11 except for the gentleman, Dr. Shelton. He said he didn't
12 know why he was there either.

13 Q He was a member of the board of directors?

14 A Right.

15 Q He was present while you were giving your
16 side of the story?

17 A Yes, he was.

18 Q They did ask you questions?

19 A No.

20 Q They just allowed you to say whatever you
21 wanted to?

22 A Yes.

23 Q You told the same story you told today?

24 A Yes.

25 Q Now, in answer to Mr. Inman's questions, you

(Transcript, Page 30)

1 said that several of your friends had asked you why hadn't
2 you been to the FOP club?

3 A Uh-huh.

4 Q You told them about being suspended; is that
5 correct?

6 A Yes, that our membership had been revoked
7 and we were told we better not set foot on that property
8 again, that we would be, I think, arrested, it was said, for
9 trespassing. This is what Ann Culp who called me at work --
10 she had heard about it, only she had heard I slapped him and
11 pushed him on the floor and torn his clothes and all kinds of
12 good stuff. This is Ann Culp. This is right shortly after-
13 wards. She didn't see us that week and as time went on, she
14 heard from Mr. Miller and she even went and asked him why
15 did he do it.

16 Q We don't want to hear what someone told you,
17 what someone else said because you weren't present, were you?

18 A No, I wasn't.

19 Q People asked you why you weren't in the club?

20 A I said I had been suspended and my membership
21 had been revoked.

22 Q They didn't know about that then, did they?

23 A No. The people that went on Saturday night,
24 no. There were a lot of people.

25 Q You're the one that told them about being

(Transcript, Page 31)
suspended?

1

2

3

A. After they asked. I didn't dare tell anybody who didn't ask. I was totally embarrassed.

4

5

Q. To the best of your knowledge, did Mr. Preston have any reason to have a grudge against you or --

6

7

8

9

10

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25

A. Cause this complaint.

Q. -- cause this complaint? I'll ask the questions. Thank you. I'm a little slow.

A. I'm sorry.

Q. Who else was standing there at the time that you know of?

A. Just Mrs. Davis who was standing right beside me and Reggie who was coming up very quickly behind her and Mr. Lewis and Dee.

* * * *

MR. PENNINGTON: Thank you. That's all I have.

-42-

1 MR. INMAN: No further questions for me.

2 THE COURT: Next witness.

3 MR. INMAN: Mr. Watkins.

4 - - - - -

5 REGINALD L. WATKINS, a plaintiff, called as a witness
6 on his own behalf, having been first duly sworn, was examined
7 and testified as follows:

8 (Transcript, Page 32)

DIRECT EXAMINATION

9 BY MR. INMAN:

* * * *

10 Q Would you please state your name?

11 A Reginald L. Watkins.

12 Q Are you presently employed?

13 A Yes, sir, I am.

14 Q What do you do?

15 A My wife and I have just recently started a
16 local trucking firm.

17 Q At the time, in the vicinity of March 8th,
18 1975, what was your occupation?

19 A General manager of a local trucking firm.

20 Q Did you continue in that occupation in that
21 capacity until you began your own --

22 A Yes.

23 Q -- operation?

24 A Yes.

25 Q Going now to March of 1975, what was your

(Transcript, Page 33)
membership status?

1

2

A Member in good standing.

3

4

Q Do you recall how long you had been a member
as of that time, March, 1975?

5

A Eight to nine years.

6

Q When you joined the club, what fees were paid?

7

8

A There was an initiation fee plus the annual
dues.

9

10

Q Do you recall the incident on March 8th, 1975
at the club?

11

A Yes, sir.

12

13

14

Q Do you have any different statements to make
as far as where you were prior to going to the club that
evening or what you were doing?

15

16

17

18

A No, sir. We went out with the Davises. We
went to The Chalet restaurant in Virginia Beach, had dinner,
left that restaurant, proceeded to the FOP club to enjoy the
dance and social life of the evening.

19

20

Q Approximately what time do you recall that
you arrived there?

21

22

23

24

25

A Between 10:00, 10:30, round figure. It's
difficult to put the exact time. As stated by my wife, the
music at the club starts around 10:00 o'clock. The band had
just started playing when we arrived. We walked into the
Viking Room, looked for seats. It was a very busy evening for

(Transcript, Page 34)

1 the club. The seats we saw were four bar stools that were
2 available -- unoccupied at the time.

3 Q You heard the testimony of your wife and do
4 you agree with her as far as what seat she took?

5 A Yes. She occupied No. 2, I had No. 3, Mrs.
6 Davis, No. 4 and Mr. Davis, No. 5, to the best of my recollec-
7 tion.

8 Q Now, giving your attention to this particular
9 area, what would you estimate to be the width of this passage-
10 way here?

11 A Occupied or unoccupied?

12 Q Well, I mean just --

13 A Because there were people in the --

14 Q The floor width.

15 A Between the bar stools and the booths, three
16 and a half to four feet.

17 Q Were there people standing in that area or
18 people sitting or not? Were there people?

19 A At the time we finished dancing in this area,
20 tables being here, you have a passageway right down this area
21 and then in here as we came off the dance floor, the dinner
22 hour was in the process of finishing up and people had come
23 in from the dining room and there was congestion in this area
24 here. These two booths were in the process of being occupied.

25 Q Okay.

-45-

(Transcript, Page 35)

1 A It was very tight space.

2 Q Do you recall dancing?

3 A Yes.

4 Q How many drinks had you had prior to going
5 out on the dance floor?

6 A Only a glass of wine at The Chalet restaurant.

7 Q Had you-all ordered any drinks at the club or
8 anything?

9 A We had drinks ordered and was in the process
10 of the first drink of the evening.

11 Q When you finished dancing, initially, what
12 did you do?

13 A Followed my wife and Mrs. Davis off the floor
14 and Mr. Davis excused himself to go to the rest room and I
15 followed.

16 Q How close were you to Mrs. Davis and Mrs.
17 Watkins?

18 A Someone spoke to me at the bar -- at the front
19 part of the bar referring to your chart up in this vicinity.
20 Someone spoke to me as we came off. Someone in this vicinity
21 spoke to me. I stopped for a moment to say hi and got a step
22 or two behind my wife and Mrs. Davis.

23 Q After you finished chatting with this indi-
24 vidual, did you then follow them around to where you had taken
25 seats?

(Transcript, Page 36)

1 A Right, yes.

2 Q Had you left your drinks on the bar or did
3 you have them with you?

4 A Yes, we left the drinks on the bar. You
5 don't dance with a drink.

6 Q Was there anything else? Did you have coats?

7 A Purses. The two women had left their purses
8 there.

9 Q I see. After you began following the ladies
10 around where your seats were, what, if anything, happened at
11 that point?

12 A Well, bypassing people who were attempting to
13 get into booths from the dinner hour, as I walked up, I noticed
14 Carole had -- it appeared to me stepped back and I heard the
15 gentleman seated on the stool that she had been occupying
16 say -- I heard the last part of the phrase, "God damn hands
17 off me, lady. Pick on someone your own size." By this time,
18 I reached Carole and she was standing there completely
19 shocked and wide-eyed and open-mouthed and asked her, "Are
20 you all right," and she was in such a state that she couldn't
21 answer, so I looked at Mrs. Davis and I said, "Here, sit
22 down. Carole, sit down." I turned and faced the gentleman
23 and I said, "Nobody talks to my lady like she's a dog. If you
24 want to talk to someone like a dog, talk to me," and the
25 gentleman said, "I see you're a member of the Shrine. Are you

(Transcript, Page 37)

1 a noble?" At the time I had on a lapel pin which is absent
2 today and I said, "Yes, sir, I am. Are you a Shriner?"

3 He said, "Yes." I said, "Well, I don't know what
4 my lady may have said to you but I do offer you my apologies.
5 We didn't come down here to have trouble. We do not want any
6 trouble. I apologize profusely for anything she may have done
7 or said to you and I offer my hand in friendship as one
8 Mason to another." My hand in friendship was accepted and I
9 immediately turned to my wife who by this time had bursted
10 into tears and was visibly upset and I asked Mrs. Davis if
11 she would take Carole out so that she could recompose her-
12 self. This was all done in a very low moderate tone. No
13 need to make a ruckus. It was so low that the waitress, Dee,
14 didn't observe it -- didn't observe any problem. I did say
15 to Mr. Lewis when I finished speaking to the gentleman, "Do
16 you have anything to say?" He didn't answer. He did shake
17 his head no and Dee then offered to show Carole and Mrs. Davis
18 the way to a rest room so that they could exit through the
19 kitchen to save any embarrassment -- or further embarrassment
20 to my wife.

21 Q Was there an exit to the kitchen close at
22 hand?

23 A Yes, sir. It was a matter of three or four
24 steps from where we were seated.

25 Q How long did Mrs. Land, now Mrs. Watkins,

(Transcript, Page 38)

1 remain upset after this incident?

2 A She was -- well, after she recovered composure,
3 she was still visibly shaken and embarrassed over the inci-
4 dent that had taken place. A couple of days she was still
5 very upset over it. It's the kind of thing that I believe
6 most women would have been upset over.

7 Q Now, what was the next thing that you heard
8 about this incident, if anything?

9 A Well, I received a registered -- or certified
10 letter from the club instructing me to appear before the
11 board to explain my misbehavior.

12 Q Did you so appear?

13 A Yes, sir.

14 Q At the same time as your wife?

15 A Yes.

16 Q What were you advised of by the board of
17 directors, if anything, when you went into the meeting?

18 A When we were instructed to come in to appear
19 before the board, we were told by Mr. Lewis, who I've deter-
20 mined this morning was the president of the board -- we were
21 told that this wasn't a trial or a hearing, that they, the
22 members of the board, simply wanted to hear our side of the
23 trouble and we inquired what trouble and Mr. Miller then pro-
24 ceeded to tell us that there had been a complaint filed with
25 the board. Mrs. Land asked where the complainant was. We

(Transcript, Page 39)

1 were told he doesn't have to appear. We have his deposition.
2 We were not given any copies of any deposition nor were we
3 told that we were entitled to legal counsel nor any of the
4 other rights that are normally extended to persons on trial.
5 We were told about an allegation that had been made.

6 Q What were you told about an allegation?

7 A Only that Mrs. Land had torn a jacket and had
8 slapped Mr. Pennington (sic). For myself, I inquired as to
9 why I was before the club. Picking up a legal pad, Mr. Miller
10 says, "Well, Mr. Watkins, the only thing that we have on you
11 in the allegation or deposition is you added to the confusion."

12 Q Subsequent to that appearance, did you receive
13 any correspondence from the club?

14 A Yes, sir, I received a copy of notice telling
15 me that I had been suspended of all privileges and what-have-
16 you from the club.

17 Q I show you a letter dated April 16th, 1975 on
18 the letterhead of the Commodore Country Club and ask you if
19 that's the letter you received?

20 A Yes, sir, it is.

21 MR. INMAN: I ask this be marked as Plaintiffs'
22 Exhibit No. 2.

23 THE COURT: No. 2.

24 (Letter dated April 16, 1975, to Mr. Watkins
25 was marked as Plaintiffs' Exhibit No. 2.)

(Transcript, Page 40)

BY MR. INMAN:

Q What was your personal reaction upon receiving that letter?

A Shock.

Q Have any acquaintances of yours ever inquired of you about your not being at the club subsequent to that time?

A Yes, sir.

Q How many?

A Several. It's difficult to say how many. I have many friends.

Q More than ten?

A No, sir.

Q Okay.

A I did not make this public information.

Q Can you recall any particular names?

A Mr. and Mrs. Ted Morton asked me why I did not attend the club any more, that they wouldn't see me whenever they would come out and I said quite frankly, "I was exempted."

Q Can you name any other names?

A Mr. Charles McDuffie.

Q What, if any, personal effect did this expulsion from membership have on you?

A Well, because of many friends and people that I knew at the club and had the opportunity to meet new

(Transcript, Page 41)

friends, it hurt me in my business.

Q How often were you likely to go to the club in a week's time?

A Average three or four.

Q What events did you attend at the club?

A The social dances on Saturday, sometimes Fridays. We tried to go to buffets during the afternoon if we have time. Occasionally, on Tuesday or Tuesday night, if I was not with Carole -- I officiate basketball professionally and after a game, I would go out and get a quick sandwich and have a drink before retiring to my home.

Q Has Mr. Preston ever offered an apology for anything concerning the --

A No, sir. I haven't spoken to Mr. Preston since the night that I offered my apologies and my hand in friendship and brotherly love.

* * * *

MR. INMAN: I have no further questions.

Please answer Mr. Pennington.

THE COURT: Mr. Pennington.

- - - - -

CROSS EXAMINATION

BY MR. PENNINGTON:

* * * *

Q Mr. Watkins, did you know Mr. Preston before?

A No, sir.

Q Never spoke to him before?

(Transcript, Page 42)

1 A No, sir, not to my knowledge.

2 Q Dee was the waitress you referred to in your
3 prior testimony?

4 A Yes, yes.

5 Q You referred to her and said Dee didn't hear
6 her?

7 A To my knowledge, I asked her after the alleged
8 incident was over -- I asked her who was the gentleman and
9 she said, "What gentleman?" And I said, "The one I was just
10 talking to." And she said, "I don't know. I didn't hear you
11 talking."

12 Q You say you just heard the last part of the
13 conversation between your now wife and the defendant; is that
14 correct?

15 A I heard, "God damn hands off me, lady. Pick
16 on someone your own size."

17 Q Then there could have been some conversation
18 prior to that?

19 A Possibly.

20 Q How far behind her were you?

21 A Step or two.

22 Q Had she stopped when you stopped to talk to
23 your friends on the other side of the bar that you previously
24 referred to?

25 A No, sir. Courtesy demands women usually proceed

(Transcript, Page 43)

1 gentlemen. My wife and Mrs. Davis were in front of me.

2 Q You were only a step or two behind?

3 A Yes, sir, approximately.

4 Q Only a second or two could have elapsed
5 between the time she got to the bar and the time you got
6 there?

7 A I'm not that fast a walker.

8 Q How much time was there?

9 A If you listened to my prior testimony, I said
10 there were people trying to get into two booths and there
11 would have been more than two seconds. I had to wait for
12 these people as did my wife and Mrs. Davis a matter of seconds,
13 not realizing there was any importance. I didn't put a stop
14 watch on my travel.

15 Q You're a pretty large man, aren't you?

16 A Yes, sir.

17 Q How large are you?

18 A I'm six foot three, 218 pounds.

19 Q You went up to Mr. Preston and said that if
20 he wanted to say anything, he could say it to you; is that
21 correct? Did you say that in a friendly tone?

22 A Yes, sir.

23 Q You did?

24 A Yes, sir.

25 Q You didn't have any reason not to be friendly

(Transcript, Page 44)
at your size, did you?

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A. No reason to be unfriendly, but would not allow, as I believe you would for your wife -- would not allow anyone to abuse her.

Q I'm not involved in this litigation, sir.

A. Yes, sir, but I think the association should be pointed out.

Q What did he respond to that?

A. He responded to the fact that he noted my lapel pin that I was a member of the Shrine.

Q A Noble?

A. Yes, sir.

Q Then you offered your apologies?

A. I asked him if he was a member of the Shrine.

Q What were your exact words again?

A. I said, "I apologize for my wife." Words to the effect, "I don't know what my lady said to you, sir, but whatever it was, I offer her apologies and mine."

Q You didn't know what was said?

A. No, sir.

Q What did Mr. Preston do?

A. Talked to me about the fact that I was a member of the Shrine and I again, asked him if he was a member of the Shrine.

Q Then you looked over to Mr. Lewis and said,

(Transcript, Page 45)

1 "Do you have anything to say?"

2 A No, sir. I then offered my hand in friend-
3 ship and brotherly love to Mr. Preston, apologized again and
4 then turned to the side and said to Mr. Lewis, "Do you have
5 anything to say?" I received no response.

6 Q Did you know Mr. Lewis?

7 A No, sir.

8 Q Little fellow, isn't he?

9 A I wouldn't know.

10 Q You said your wife was upset; is that correct?

11 A Yes, sir.

12 Q Dee showed her a rest room where she could
13 compose herself?

14 A Yes, showed her through the kitchen.

15 Q Do all those things that women do?

16 A Yes, sir.

17 Q I think your exact words were, "Most women
18 would have been upset over it." Is that correct?

19 A I believe they would.

20 Q Were you upset?

21 A Yes, to a degree but I wasn't hostile. I was
22 very concerned about my lady.

23 Q You were upset but you didn't evidence any
24 outward signs of it? Is that what you're telling me?

25 A That's right. I was not hostile.

(Transcript, Page 46)

1 Q You were speaking just as you are speaking to
2 me?

3 A Yes, sir, very serious.

4 Q Now, you had an opportunity to see the board
5 of directors of the Fraternal Order of Police -- or the
6 Commodore Country Club, actually?

7 A I was instructed to appear before the board.

8 Q You did?

9 A Yes, sir.

10 Q Did you tell them your side of the story?

11 A Yes, sir. I got into it and I was cut off
12 by Mr. Miller when it appeared that we had a very valid point.

13 Q What exactly did they tell you when you went
14 in there?

15 A Very little..

16 Q Did they tell you a complaint had been made?

17 A Yes, sir.

18 Q Did they tell you exactly what this complaint
19 was?

20 A They told Mrs. Watkins what the complaint was
21 against her and as I stated previously, the only thing they
22 told me from the deposition that had been given that I added
23 to the confusion.

24 Q So they just told you that the complaint was
25 made that you had added to the confusion?

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(Transcript, Page 47)

1 A Yes, sir.

2 Q You're sure that's all they told you?

3 A That's all they told me. We were ushered
4 out very unceremoniously.

5 Q By the way, you testified that Mr. McDuffie
6 asked you why you were no longer at the club; is that correct?

7 A Yes, sir, I did.

8 Q He's a member of the board of directors?

9 A Yes, sir, he is.

10 Q Are you aware that he was present that night?

11 A I'm aware that he was not present, sir.

12 Q If I told you he was present in another room,
13 that would be incorrect?

14 A No. I wouldn't know about that, so let me
15 clarify my statement. There was evidently a board hearing
16 prior to the dinner that evening. Mr. McDuffie along with
17 several other members of the board of directors came through
18 the buffet line. I saw Charlie. Charlie was not in the
19 board of directors at the time Mrs. Watkins and myself were
20 requested to come before the board.

21 Q Mr. McDuffie knew both of you; is that right?

22 A Well, he knew me at the time. I think he had
23 known Carole through her contact with him on other business,
24 not pertinent to this case.

25 Q Who conducted this meeting then?

(Transcript, Page 48)

1 A Mr. Miller, I assume was in charge and today
2 it's been stated he was the president of the board.

3 Q Was there anyone else present that asked any
4 questions?

5 A Mr. Amburn asked me one or two questions.

6 Q You and Mr. Amburn were friends; is that
7 correct?

8 A He's still my friend.

9 Q You mentioned this had hurt your business;
10 how is that?

11 A Occasionally when I would have business
12 associates in, I would take them to the club for buffet.
13 There were other people that I had the opportunity to talk
14 to about business. This is all.

15 Q You used your membership in the club to
16 facilitate your business transactions?

17 A Not primarily.

18 Q I didn't ask primarily, but you did do that?

19 A Yes, sir.

20 Q That is what you're complaining about when you
21 say it has hurt your business?

22 A Yes, sir. It has hurt me financially.

23 Q Do you know of any reason why Mr. Preston
24 would have any other reason except this incident that night
25 to have anything against you to seek revenge?

(Transcript, Page 49)

1 A I have no reason to believe that Mr. Preston
2 had any reason to do anything. I don't think for Mr. Preston.
3 I don't know. I didn't know the gentleman and I haven't
4 spoken to him since the evening.

5 Q I guess my question was, to the best of your
6 knowledge, did Mr. Preston have any reason other than some-
7 thing that may have happened this evening in question to have
8 any ill will toward you?

9 A Not to my knowledge. We don't know each other
10 to my knowledge. First time I'd ever seen the gentleman.

11 Q After you shook hands, you had a conversation
12 regarding the Shrine?

13 A No, sir.

14 Q You just moved? He moved? What?

15 A I'll repeat it again for you, sir. I gave him
16 my feelings on talking to my lady. He made a comment to me
17 about being a member of the Shrine. He referred to me as a
18 Noble. I asked Mr. Preston, "Are you a member of the Shrine?"
19 He said, "Yes." I said, "You wear no indication of it."
20 Again, I offered my hand in friendship and brotherly love and
21 apologized. I physically shook the man's right hand.

22 Q Have you rehearsed this story?

23 A No, sir, I'm telling you what happened. It's
24 very vivid in my mind.

25 Q You haven't discussed this story with anyone?

(Transcript, Page 50)

A I beg your pardon?

Q You haven't discussed this story with anyone?

A No, sir. Who's to discuss it with?

* * * *

MR. PENNINGTON: Thank you. That's all.

THE COURT: We'll take a short recess.

(The court was adjourned.)

(The court was reconvened.)

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PHYLLIS B. DAVIS, called as a witness on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. INMAN:

* * * *

Q Would you please state your full name?

A Phyllis B. Davis.

Q Where do you reside, Mrs. Davis?

A 504 West Grove Road, Virginia Beach.

Q Are you acquainted with Mr. Watkins?

A Yes.

Q Are you acquainted with Mrs. Watkins?

A Yes.

Q How long have you known Mr. Watkins?

A Six years.

Q How long have you known Mrs. Watkins?

A Three.

1 (Transcript, Page 51)

2 Q How did you come to meet these people either
jointly or separately?

3 A Well, my second marriage. Mr. Watkins and
4 my husband were very close friends and then after his first
5 wife died, I met Carole.

6 Q I see. Have you ever gone out socially with
7 Mr. and Mrs. Watkins?

8 A Yes, sir.

9 Q Where would you go on these occasions?

10 A Well, usually it was on a Friday night or
11 Saturday and we'd go dancing or out to eat or they'd come
12 over my house or we'd go over theirs.

13 Q When you went out dancing, what places would
14 you go to dance?

15 A Well, I've never been to a dance with them
16 anywhere other than the FOP.

17 Q You indicated that you went to the FOP?

18 A Yes, we went to the FOP.

19 Q How often?

20 A Not too often because I had been sick, you
21 know, but we communicated through telephone and coming by and
22 seeing me and things like that.

23 Q All right. Have you had an opportunity to
24 observe Mr. Watkins in a social setting, say, at the FOP
25 Club?

1 (Transcript, Page 52)

A Yes, sir.

2 Q How would you describe his demeanor in a social
3 setting?

4 A He's a gentleman as far as I'm concerned.
5 I've never seen anything out of the way by Mr. Watkins.

6 Q You say you've never seen anything out of
7 the way?

8 A That's right.

9 Q How about Mrs. Watkins, have you had occasion
10 to observe her in a social setting?

11 A Yes, sir.

12 Q How would you characterize her demeanor?

13 A Fine lady.

14 Q Have you ever had occasion to see her get out
15 of line, be rude to people?

16 A No, sir.

17 Q You've never seen that?

18 A Unh-unh.

19 Q Do you recall the evening of March 8th, 1975?

20 A Yes, sir.

21 Q What makes you recall that evening?

22 A Well, we had a little -- I don't know what
23 you want to call it, run-in at the club -- at the FOP.

24 Q All right. Who were you with that evening?

25 A I was with Mr. Watkins and Carole before she

(Transcript, Page 53)
was married to him.

Q Was there a fourth person in this party?

A Yes.

Q Who was that?

A My husband.

Q Had you been anywhere prior to going to the
Commodore? Did you go directly there from your home?

A No, sir. We went to the Blue Hawaii for
dinner. We had a glass of wine. We had a bottle of wine and
then we had dinner. We went straight from there and went to
the FOP and as we were going in, the band was playing but we
sat down at the bar on the floor stools right together.

Q Before we get to that point, you indicated
you went to the Blue Hawaii for dinner. Where is that
located?

A Independence. There's two or three of them.
Now, I can't -- it's been so long, I have forgotten. I don't
remember now because I go out with some other friends, too,
see. I really don't remember.

Q Are you absolutely certain it was the Blue
Hawaii at that point?

A Yes, sir.

Q Let me ask you this question, Mrs. Davis.
If someone testified that the restaurant --

MR. PENNINGTON: Objection. Leading.

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(Transcript, Page 54)

THE COURT: Sustained.

BY MR. INMAN:

Q I want to show you a diagram.

A Me?

Q If you could kind of turn around so the jury can see. This is a diagram that purports to be the Viking Room of the Commodore Country Club. Does that look like a fair description drawing to you?

A Uh-huh.

Q This is indicated to be the entranceway from the dining area of the Commodore Country Club. Does that meet with your remembrance of the place?

A Yes. Uh-huh.

Q When you entered this room of the club that evening, what seats did you take?

A We came through the door and we took the second, third, fourth and fifth. There was a man sitting on the end and it's a door that goes to the kitchen from there, if I'm looking at it right. If I remember where I was.

Q When you took those seats at the bar, what did you do? Did you just put something down and leave or did you --

A No, we --

(Transcript, Page 55)

1 Q -- get a drink or what?

2 A We sat there and ordered a drink and we sipped
3 on that and we had our purses and cigarettes and everything
4 on the bar and we then -- the band started up and I'm almost
5 sure it was Kansas City because I love that piece and I said,
6 "Come on, let's dance." We had not finished our first drink.

7 Q Where did you go to dance?

8 A On the floor up in here.

9 Q Where would that be?

10 A Up in this -- you have to pass this part of
11 the bar and the dance was up in this place.

12 Q Are there any obstructions that might have
13 gotten in your way? Is this area an open area?

14 A Yes, this is an open area cause there is a
15 bar. You had to go up here and turn this way and then there's
16 a dance floor right up there.

17 Q After you finished dancing to this particular
18 piece, did you-all continue to dance or did you return to your
19 seats or what did you do at that time?

20 A No, sir. My husband said he had to go to the
21 rest room. The rest room is thataway, right through that
22 door there.

23 Q Okay.

24 A There's booths all up in here. Carole and I
25 were together and then Reggie stopped off. I don't know where

(Transcript, Page 56)

1 and spoke to a friend and she and I went back to the bar
2 together.

3 Q Okay. Was she behind you or in front of you?

4 A She was in front of me.

5 Q What did you observe, if anything, when you
6 got back to the bar?

7 A Well, when we got back to the bar, this man
8 which I didn't know at the time -- I still don't know him.
9 I only know his name now -- was in her seat and she went over
10 to him which I was in back of her. She went over to him and
11 she just tapped him like on his left shoulder and she said,
12 "Sir, you have our seats."

13 Q Do you recall whether there was anyone seated
14 in the one numbered 1 there?

15 A No, sir, cause I couldn't see that because
16 I was kind of -- when she tapped him, I couldn't get in my
17 seat because she was standing kind of --

18 Q You're saying you couldn't see around her?

19 A No, I couldn't see. I couldn't see the man
20 next to her because she was -- the one on the end, no, sir,
21 I couldn't see for her head.

22 Q When she was speaking, was she speaking away
23 from you or in your direction?

24 A Well, she had her head -- she had her head
25 kind of -- "Sir, you're in our seats."

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(Transcript, Page 57)

1 Q You were behind her at this point and heard
2 what she said? What reaction, if any, did the man who she
3 touched on the arm or shoulder have?

4 A What reaction did who have?

5 THE COURT: What did Mr. Preston say or do?
6

7 A (Continuing) Oh, Mr. Preston turned around
8 to her and he said, "Get your GD hands off of me, lady, and
9 pick on somebody your own size." Then he said something else
10 which was not a nice word but I can't remember all that
11 because I got a little shook up then, you see, and I've never
12 been used to this stuff.

13 Q Did he do anything else in addition to speak-
14 ing these words to her?

15 A No, sir. I'm sure he hurt her feelings and
16 she kind of got a little shaken.

17 Q When he spoke those words was he facing towards
18 the bar or was he facing towards --

19 A He was facing her.

20 Q He was facing her?

21 A Yes, sir.

22 Q Did she move forward or backward when he said
23 these words to her or what?

24 A No, she didn't. She just stood there.

25 Q What was her reaction?

(Transcript, Page 58)

1 A Well, see, I couldn't see her face real
2 clearly. I just could tell that she was getting a little
3 bit jittery, you know, and I said to myself, "Where is
4 Leonard?" I knew where Leonard was but where was Reggie and
5 it happened so quickly, here comes Reggie and he spoke to
6 Mr. Preston and then I went to look for my husband. I just
7 stepped away and went to look for my husband and I saw his
8 head was in the door and I did like this to him and he come
9 up and he says, "What's wrong?" I said, "I don't know.
10 There's a little bit of disturbance and this man has called
11 Carole some names. Reggie is there now." When Reggie came
12 up, he said, "What is going on? You don't talk to my lady
13 like that."

14 Q Was there a crowd by this or not?

15 A No. Unh-unh. But I did look back when Reggie
16 came up and when I was passing just two or three steps, you
17 can see all the way through there. I saw a lady and a man in
18 a booth and this lady was trying to get out, you know, like
19 something's going to happen. Something's going to happen. I
20 said, "That must be his wife." I didn't know him from Adam
21 and I said, "Oh, Lord, no." It kind of makes you excited and
22 then after my husband got there, I felt better 'cause I didn't
23 know what was going on and Carole got crying so bad and Reggie
24 said a few words to him and he shook the man's hand. Dee was
25 behind the bar and they were busy as they could be that night

(Transcript, Page 59)

1 and Dee says, "If you want to go through this door right here
2 to the kitchen, there's a bath room this way."

3 Of course, you know her makeup was -- she took her
4 purse and I didn't take mine. She didn't have anything in
5 her purse so I came back and got mine and everything was all
6 over. She was very disturbed when we got to the bathroom,
7 you know, crying and she didn't know what was going on when
8 we left.

9 Q Did you or did you not go back to Mrs. Watkins'
10 residence, then Mrs. Land's residence, with her after this
11 incident?

12 A Went back to her house?

13 Q Did you?

14 A Did I go?

15 Q Did you go?

16 A No, sir.

17 Q How did you describe what happened with regard
18 to Mrs. Land and Mr. Preston? What was Mr. Preston's demeanor
19 like in this incidence? Was he calm? Was he excited? How
20 was he?

21 A Well, no, he wasn't calm. I didn't know then
22 -- I knew he had been drinking. You could smell it. But I
23 don't know how much. He just, you know, sometimes whiskey
24 will make you do -- and alcohol beverages -- I don't know
25 what he had been drinking. I know he wasn't a gentleman at

(Transcript Page 60)
that time like the way he talked to her.

* * * *

MR. INMAN: I don't have any further questions.

Please answer Mr. Pennington.

- - - - -

CROSS EXAMINATION

BY MR. PENNINGTON:

* * * *

Q You're close friends of the Watkins?

A Am I close?

Q Yes, ma'am.

A Well, we're fairly close. Like I say, I've
been knowing them one six and one three.

Q You went several places with them together?

A Yes, sir.

Q You were together with them that night?

A Yes, sir.

Q You had just had one bottle of wine at the
Blue Hawaii?

A Yes, sir, between the four of us.

Q You're positive of that?

A Yes, sir.

Q Mrs. Watkins just placed her hand on the defen-
dant's shoulder and said, "Excuse me, sir, you're sitting in
my seat."?

A Yes, sir. "You have our seats," or, "You
are sitting in my seat." Didn't make any difference but it

(Transcript, Page 61)

1 was all -- all our stuff was right there, cigarettes, drinks,
2 pocketbooks.

3 Q You were standing behind her?

4 A Yes, sir. On the side of her. Well, I was
5 behind her but I was turned kind of towards -- when I heard
6 this ruckus.

7 Q How did you describe it; as a ruckus?

8 A No. When I heard Mr. Preston speak to her
9 like he did, it kind of shocked me 'cause I've never been
10 through any of this before. I've never seen nor heard men
11 talk to somebody they don't even know like this before. She
12 didn't do anything but said that he had our seats. That was
13 it.

14 Q Did you observe a conversation between
15 Mr. Watkins and the defendant?

16 A I don't remember what was said because I was
17 -- I wanted my husband with me and that's when I stepped
18 about three steps. Like I say, this lady -- I don't know who
19 she was. Whether it was his wife or girl friend or what.
20 She wanted to get away from there and then I saw my husband,
21 like I said, I waved my hand and I said, "Come on, Honey, some-
22 thing's going on in this corner. Some bad words being said
23 and I want you to hear."

24 Q You didn't hear the specific words?

25 A No, but I did hear Mr. Watkins -- I did see

(Transcript, Page 62)
Mr. Watkins shake his hand.

Q Did you hear any conversation between Mr. Watkins and anyone else in the --

A He was talking to him because he was --

Q Excuse me. I said, did you hear any conversation between Mr. Watkins and anyone else at the bar?

A Seated at the bar?

Q Or standing at the bar. Anything else?

A Nobody but Mr. Preston.

Q You weren't present at any board meeting?

A No, sir.

Q You didn't hear Mr. Preston's complaint to the board?

A No, sir.

Q You never knew Mr. Preston before?

A No, sir.

* * * *

MR. PENNINGTON: That's all I have. Thank you.

MR. INMAN: I have a couple redirect.

- - - - -

REDIRECT EXAMINATION

BY MR. INMAN:

* * * *

Q Mr. Pennington asked you about what you observed about Mr. Watkins. You said you did observe him talking with Mr. Preston?

(Transcript, Page 63)

1 A Uh-huh.

2 Q How would you describe his demeanor or how
3 was he talking to him, in a loud voice, soft voice? How
4 would you describe it?

5 A It wasn't loud. I can remember now. It's
6 coming back to me. I can remember him saying, "You don't talk
7 to my lady like this." I remember that much. Then Carole
8 was kind of -- she and I got talking and I said, "Come on,
9 let's just go." He went on just in a nice voice. It wasn't
10 rough or ruffled or anything like that, you know, nobody
11 heard it.

12 Q Did you see any physical contact made
13 between --

14 A No, sir. The only physical contact I said
15 was him shaking his hand.

* * * *

16 MR. INMAN: I have no further questions.

17 MR. PENNINGTON: I have no further questions.

18 MR. INMAN: Mr. Lennie Davis. Leonard Davis.

19 - - - - -

20 LEONARD H. DAVIS, called as a witness on behalf of
21 the plaintiffs, having been first duly sworn, was examined
22 and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. INMAN:

* * * *

25 Q Would you please state your full name?

(Transcript, Page 64)

1 A Leonard H. Davis, Jr.

2 Q Where do you reside?

3 A 504 West Grove Road, Virginia Beach in
4 Aragona Village.

5 Q Are you acquainted with Mr. Watkins?

6 A Yes, sir.

7 Q Are you acquainted with Mrs. Watkins?

8 A Yes, sir.

9 Q How long have you known Mr. Watkins?

10 A Better than 25 years.

11 Q How about Mrs. Watkins; how long have you
12 known her?

13 A Since about 1974. The first part of the
14 year.

15 Q Regarding Mr. Watkins, have you ever in your
16 course of knowing him gone out with him socially?

17 A Yes, sir.

18 Q With what frequency have you gone out socially
19 with him or anybody else in the same party?

20 A As the closest of friends over the years, I
21 would say practically every week. I've either seen him or been
22 out with him, particularly during the Christmas season and
23 during the summer months.

24 Q In the course of the social contact with him,
25 how would you describe his demeanor in a social setting?

(Transcript, Page 65)

1 A Above reproach.

2 Q Well, would you characterize him as an average
3 man in a social setting, below average or above average?

4 A Above average, yes, sir.

5 Q Have you ever had occasion to observe Carole
6 Land, now Carole Watkins, in a social setting?

7 A Yes, sir.

8 Q How would you describe her conduct?

9 A In the same manner.

10 Q Do you recall the evening of March 8th,
11 1975?

12 A Yes, sir.

13 Q What makes you recall that evening in partic-
14 ular?

15 A Because of the incident which happened between
16 Carole and Reggie, if I can refer to them as that, and the
17 gentleman that's in here, in regard to some type of a disturb-
18 ance.

19 Q On that evening, who were you out with, as
20 far as what party? What was your party composed of?

21 A Myself and my wife and Mr. and Mrs. Watkins.

22 Q Did you go anywhere prior to going to the
23 Commodore Country Club?

24 A We had gone out to dinner together, the four
25 of us.

(Transcript, Page 66)

1 Q Do you recall where that was?

2 A I think it's called the Chalet. It's over in
3 Haygood Shopping Center in Aragona Village. It's a restaurant
4 which is now closed.

5 Q You say it's The Chalet?

6 A (Witness nods head affirmatively.)

7 Q You recall it?

8 A Yes, that's it. It's now owned by the Blue
9 Hawaii in the same restaurant area.

10 Q I see. How many drinks did you have when
11 you went to the restaurant?

12 A Couple, at the most three. They were along
13 with our meal.

14 Q Did you have any wine that you recall, per-
15 sonally?

16 A I can't recall. I don't drink wine. I drink
17 regular bourbon and water and drinks of that nature.

18 Q Do you recall whether or not what particular
19 the other parties present had to drink?

20 A No, sir, I don't. They had alcoholic beverage
21 but as to what, I don't know.

22 Q After you arrived at the Commodore Country
23 Club, can you recall about what time you got there?

24 A The best of my recollection -- it's been so
25 long. It was just a little -- almost at the time the band was

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(Transcript, Page 67)

1 beginning to play because we did do some dancing shortly
2 after we arrived.

3 Q I want to show you a diagram which purports to
4 represent the Viking Room at the Commodore Country Club. You
5 take a look at that diagram. Does that look like a fair
6 representation in your opinion if I told you that this is the
7 entrance from the dining room down from the bottom right-hand
8 corner?

9 A Yes, sir.

10 Q When you entered the room, did you come in
11 from the dining room?

12 A Yes.

13 Q Where did you go from there? If you will
14 indicate with your finger.

15 A We entered through the doors and we came
16 right where these booths are and took a right and went and
17 stood along this area here.

18 Q Could you be specific? Can you recall speci-
19 fically which bar stools you had taken?

20 A I think we took these four there. This one
21 was vacant. Could have been occupied. I don't know. That
22 one was -- somebody in front of it. I think we had these
23 here. 2, 3, 4 and 5.

24 Q When you got there and took these bar stools,
25 what did you do?

(Transcript, Page 68)

1 A What you normally do. We ordered a drink
2 from the waitress and shortly thereafter we went to dance.
3 When we came back, shortly thereafter, I had to go to the
4 rest room which is going this way because there's a rest
5 room for ladies and men in that area.

6 Q Would you point --

7 A Going, you know, in this direction and taking
8 a right and going to the rest room over in this area right
9 here.

10 Q Did you have occasion to dance after you got
11 there?

12 A Oh, yes. Oh, yes, shortly after we got there.
13 Within a few moments, whatever, ordered our drinks and maybe
14 a few moments transpired and we danced.

15 Q Did all of you dance or just a couple of you?

16 A I tell you, it's been so long, I feel quite
17 sure that Mr. and Mrs. Watkins danced but I'm still hazy on
18 that. I feel like they did.

19 Q What else do you remember that happened there
20 that evening after you'd ordered a drink and gone out to
21 dance? What happened?

22 A Well, after I returned from the resting area,
23 as I was walking along this section here, these stools, three
24 on down to seven, my wife motioned to me to come over real
25 quick and when I approached her, she said that there had been

(Transcript, Page 69)

1 a little disturbance as we termed Reggie and Carole. She
2 wanted to be sure that no problems enveloped and I said,
3 "Okay, let me look into it." I went over and approached
4 Reggie and asked him what happened and he said, "Well, just a
5 little --"

6 MR. PENNINGTON: Objection.

7 THE COURT: Sustained. You can't testify
8 what Reggie told you. Just testify as to what you
9 observed when you went over there..

10 A (Continuing) Well, I didn't observe anything
11 at that point. After my wife told me what she did, I walked
12 over to find out what went on and I was told there was --
13 apparently, at that time, everything had been resolved and
14 everything was quiet. People were sitting around drinking.
15 There was no people standing around or looking or no evidence
16 of any dismay or disorder. That's all I can tell.

17 Q Did you have any occasion to observe any person
18 sitting in any of these seats other than Mr. Watkins or Mrs.
19 Watkins?

20 A No. When I returned, Mr. Watkins was standing
21 approximately here and Carole was somewhere along in here. My
22 wife was over here and I went to him and I -- I did go to Mr.
23 Watkins. I passed someone coming beside me. It was just like
24 somebody getting up and going some place. Everything was
25 quiet and serene.

(Transcript, Page 70)

1 Q Do you recognize Mr. Preston or not?

2 A No, sir, I wouldn't recognize him.

3 Q With regard to what was going on at the club
4 that evening, was it a light evening or a crowded evening or
5 in between?

6 A It was pretty -- well, full by that time, I
7 would say. There were a few vacancies. Basically, I would
8 say it was in the neighborhood of 85 or 90 percent filled.

9 Q What was the traffic like in this particular
10 area that we've been talking about where this incident
11 apparently occurred?

12 A Before or after when I got there? The traffic
13 was light when I got there. When I returned from the rest
14 room the traffic was light except for two or three people
15 standing. You know, you get four in a booth or whatever, but
16 as I said, Reggie was at the far end and Carole was standing
17 up somewhere in this area. Then a gentleman passed me, whom
18 I don't know. I didn't pay any attention to him to tell you
19 the truth.

20 Q Were there people in the booth?

21 A Yes. Not in the one next to the kitchen door.
22 This is the door to the kitchen but there were some people in
23 the booths, yes, sir.

24 Q Now, in your approaching the area where the
25 incident apparently happened, where you saw Reggie and Carole

(Transcript, Page 71)

1 and your wife after you were returning from the men's room,
2 did you in approaching that area hear any disturbance or not?
3 Did you hear any --

4 A No, sir.

5 Q -- loud noises?

6 A No, sir. The only evidence of a disturbance
7 was when my wife said, "It looks like there's going to be a
8 problem and I want you to get over and see what you can do."
9 Words to that effect.

10 Q Did anybody have torn garments or red marks
11 on their face or anything like that?

12 A No, sir. No, sir. As I said, everything was
13 quiet and it was a normal atmosphere.

14 Q Did you hear any loud voices?

15 A No, sir.

16 Q People yelling at each other in that direction?

17 A No, sir. No, sir.

18 Q Did you have occasion to observe Carole Watkins
19 after the incident? Did you see her?

20 A Yes, yes, I did. She was an upset young lady
21 and she and my wife left the area shortly after I arrived.
22 They were speaking with Reggie.

23 Q You said she was upset. How could you tell?
24 What did you see?

25 A Because she was crying.

(Transcript, Page 72)

Q I believe I asked you how often you had frequented the Commodore Club. How many times have you gone in the company of Mr. and Mrs. Watkins, not necessarily as Mr. and Mrs. Watkins, but the two of them?

A I can only tell you we've been there several times on many occasions. I can't give you a frequency, no. We go out with other people from time to time but we had been in the country club many times prior to that.

Q Is this just in the evening or morning or noontime or --

A It encompasses evening and it encompasses going to a pool on Saturday or Sunday or sometimes during the week, we had been in their company.

Q How would you characterize the use of the facility while they were members by Mr. Watkins, first of all?

A Well, I would --

THE COURT: How did they act when he went there?

MR. INMAN: Sir?

THE COURT: Do you mean --

MR. INMAN: I meant from his association with Mr. Watkins, if he knew how frequently he used the club.

THE COURT: He did or Mr. Watkins?

MR. INMAN: Mr. Watkins.

(Transcript, Page 73)

THE COURT: Do you know how often Mr. Watkins went there to the club per week; per month?

THE WITNESS: No, sir.

THE COURT: He doesn't know the answer. Next question.

BY MR. INMAN:

Q Do you have any personal knowledge as to what, if any, effect this incident had on Mr. Watkins?

A Yes, it's been very disturbing to him and we've talked about it in general conversation off and on since the incident took place. He's been very, very upset about it.

Q How about Mrs. Watkins; have you ever had occasion to know how she feels about the situation?

A Yes, sir. She's been more upset than Mr. Watkins has. More outspoken in discussing it and concerned about what happened.

* * * *

MR. INMAN: No further questions. Thank you.

Answer Mr. Pennington, please.

- - - - -

CROSS EXAMINATION

BY MR. PENNINGTON:

* * * *

Q You said you were the closest of friends and had been friends for 25 years?

A Yes, sir.

(Transcript, Page 74)

1 Q You didn't actually see any of the incident
2 that caused all this?

3 A No, sir, I did not.

4 Q Did you testify that you had discussed this
5 with Mr. Watkins several times since then?

6 A Yes.

7 Q If Mr. Watkins said that he hadn't discussed
8 it with anyone, that would be incorrect?

9 A Well, yes.

* * * *

10 MR. PENNINGTON: Thank you. That's all I
11 have.

12 THE COURT: Anything further of this witness?

13 MR. PENNINGTON: No, sir.

14 THE COURT: Next witness, please.

15 MR. INMAN: Earle White.

16 - - - - -

17 EARLE V. WHITE, JR., called as a witness on behalf
18 of the plaintiffs, having been first duly sworn, was examined
19 and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. INMAN:

* * * *

22 Q Mr. White, would you please state your full
23 name?

24 A Earle V. White, Jr.

25 Q Where do you reside?

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(Transcript, Page 75)

1 A 829 Jasmine Avenue, Norfolk.

2 Q Are you acquainted with Mr. Reginald Watkins?

3 A Yes, I am.

4 Q Are you acquainted with Mrs. Carole Watkins,
5 formerly Mrs. Carole Land?

6 A Yes, I am.

7 Q How long have you known Mr. Watkins?

8 A I guess about 15, 20 years.

9 Q Have you had occasion to be together with him
10 on social occasions?

11 A Yes, I have.

12 Q Where would those occasions be? What location?

13 A We've had different functions out at the FOP.
14 We've had oyster roasts. I belong to the same basketball
15 board he belongs to.

16 Q Have you had occasion to observe him in a social
17 setting on these times you've been together?

18 A Definitely.

19 Q How would you characterize his demeanor and
20 the way he carries himself in a social setting?

21 A Well, every time I've ever been out with Mr.
22 Watkins, or Reggie as I call him, he's always conducted him-
23 self as a gentleman. I've never seen him out of the way.

24 Q Now, with regard to Mrs. Watkins; how long
25 have you known her?

(Transcript, Page 76)

1 A I guess I've known Carole about three years
2 or so.

3 Q Have you ever had occasion to observe her in
4 a social setting?

5 A Yes, I have.

6 Q How would you characterize her conduct in a
7 social setting?

8 A She's always conducted herself as a lady,
9 joking around with different people she knows, but always
10 conducted as a lady.

11 Q Have you ever seen Mrs. Land act in a rude
12 manner toward people?

13 A Never.

14 Q Verbally or physically?

15 A Never.

16 Q Have you ever had occasion to gain information
17 about an incident which happened at the Commodore Country
18 Club on March 8th, 1975?

19 A Just hearsay at the bar, you know, things
20 like that.

21 Q What did you hear at the bar?

22 THE COURT: Don't answer that. He said,
23 "Yes, sir."

24 MR. INMAN: No, sir, I don't believe so. In
25 this occasion, it would be an exception to the hearsay

(Transcript, Page 77)

rule because we're not asking for the testimony to go to the truth of the matter asserted by, only that the statement was made and that's the only purpose.

THE COURT: Publication?

MR. INMAN: Yes, sir.

THE COURT: All right. Go ahead.

A (Continuing) Well, I used to frequent the FOP quite regularly after the work hours. We had the same group. We used to go out there and I guess it was about a week or so -- I wasn't there at the time of the incident and just heard two or three times -- just heard, "Did you hear what happened to Reggie and Carole?" I'd say, "No, I didn't." Well, I heard certain things that, you know, they got rude. Someone got rude towards them or someone pushed. Just general hearsay as you're having a few drinks talking, but as far as what really happened, I couldn't tell you.

BY MR. INMAN:

Q What was said, if anything, about what any action Carole Land may have taken?

A The gentleman in question that we're talking about that I was talking to is dead. Mr. Clift Wood who was the one I talked to and he said he heard that some gentleman got rude toward Mrs. Land and said a few detrimental things and he heard that Mrs. Watkins got up there and told him not

(Transcript, Page 78)

1 to talk to his woman as such and that's basically all it is.
2 Then, of course, you hear more hearsay. Well, once it was a
3 push situation which I don't know for sure. I'm just -- like
4 I said, I'm going by hearsay.

5 Q Did anybody say who pushed who?

6 A No, just said it was a pushing incident.

7 Q Were there other parties to this conversation?

8 Was there a group of people at the bar?

9 A Just like I say, it was a general group. We
10 used to go out there after work. Seven or eight of us getting
11 out there for happy hour having a few drinks and talking over
12 the day's work and things like that. Just general conversa-
13 tion going on. That's all.

14 Q Did anyone in that group ever say that Carole
15 struck Mr. --

16 MR. PENNINGTON: I'm going to object to the
17 hearsay at this point.

18 THE COURT: Sustained.

19 BY MR. INMAN:

20 Q Do you know whether or not one or both of
21 these people seated to my right were expelled from the club?

22 A Yes. I was informed they were expelled.

23 Q Was the expulsion subject to the conversation
24 and the same conversation you were talking about before?

25 A Well, expulsion came afterward because they

(Transcript, Page 79)

1 had to meet the board of the FOP and later on I found out --

2 I can't remember how much it was later, that they had been
3 expelled for the incident that happened there.

4 Q What reaction did you have to that?

5 A I just couldn't believe it. You know, like I
6 say, it's all hearsay, as far as what I heard, but I couldn't
7 understand. I don't think they've ever had any problem before.
8 Like I say, they've always conducted themselves as a gentleman
9 and lady when I was around. I figured that was too big of a
10 punishment to pay if they were wrong and even if they weren't.
11 In my opinion, I knew they weren't.

12 Q Any question as to whether they had been at
13 fault?

14 A Definitely not.

* * * *

15 MR. PENNINGTON: May we approach the bench,
16 Your Honor?

17 (Conference held outside hearing of court
18 reporter.)

19 - - - - -

20 CROSS EXAMINATION

21 BY MR. PENNINGTON:

* * * *

22 Q Mr. White, have you heard conversations
23 regarding this incident? Is that correct?

24 A Yes, sir.

25 Q You testified that you'd heard several

-90-

(Transcript, Page 80)
different stories?

1

2

A. Yes, sir.

3

4

5

Q. You often engage in conversations concerning the members of the club you know about? Is that a natural thing that comes up in conversation?

6

7

8

A. Basically, just like anything else, you sit at the club, you know, someone will say something about someone. You might not have been there.

9

10

11

12

Q. Favorite pasttime?

A. Favorite pasttime.

Q. Had you heard other conversations about Mrs.

Land? At that time she was Mrs. Land and Mr. Watkins.

13

14

15

A. What are you talking about, conversations?

Q. Had you heard any other conversations?

A. About what?

16

17

Q. Well, had you heard that several other people had made complaints to the board about that couple?

18

19

20

21

22

A. No. The only complaint that I was told was that it was brought forth and I don't know the gentleman in question, Mr. Preston. Whether the group that was with him complained, I wasn't told about that. It was just who was involved. It was Mr. and Mrs. Watkins.

23

24

25

Q. Against Mr. Preston? Have you heard of any complaints made about the incident that occurred before this one?

(Transcript, Page 81)

1 A No, I haven't.

2 THE COURT: He said no.

3

4 BY MR. PENNINGTON:

5 Q You were present on that date?

6 A No, sir.

7 Q Of your own personal knowledge, you don't know
8 what happened?

9 A I don't.

* * * *

10 MR. PENNINGTON: Thank you, sir.

11 THE COURT: Next witness.

12 MR. INMAN: Dee Hammer.

13

- - - - -

14 DORIS HAMMER, called as a witness on behalf of the
15 plaintiffs, having been first duly sworn, was examined and
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MR. INMAN:

* * * *

19 Q Would you please state your name?

20 A Doris Hammer.

21 Q How do you spell that last name?

22 A H-a-m-m-e-r. No "S" on it.

23 Q Where do you reside, Miss Hammer?

24 A 661 Liberty Bell Road in Virginia Beach.

25 Q Have you ever been employed by the Commodore

(Transcript, Page 82)
Country Club?

2 A Yes, sir.

3 Q In what capacity?

4 A Bartender.

5 Q Were you employed there in that capacity in
6 March of 1975?

7 A Yes, sir.

8 Q Are you acquainted with Mr. Reginald Watkins?

9 A Yes, I know him.

10 Q Are you acquainted with Mrs. Watkins, formerly
11 Mrs. Land?

12 A Uh-huh.

13 Q Did you come to meet these people through the
14 Commodore Country Club or otherwise?

15 A Through the Commodore, yes.

16 Q Did you see them there frequently or not so
17 frequently?

18 A They'd come there a little bit, yes. I mean,
19 how frequently -- what do you mean by frequently?

20 Q How many times a week did you perhaps see
21 them?

22 A Maybe a couple times.

23 Q Did you work every day?

24 A Uh-huh, till 6:00 and then I filled in at
25 night.

(Transcript, Page 83)

1 Q You filled in at night?

2 A Uh-huh.

3 Q Do you recall the evening of March 8th,
4 1975?

5 A I recall when he come to see me, yes.

6 Q All right. Well, do you recall any event that
7 occurred there involving Mr. -- let me retract that. Do you
8 know Mr. Preston, the gentleman sitting over to my left?

9 A I've seen him at the club once or twice.

10 Q Were you present at the club any time when
11 there was any type of problem between Mr. Preston and Mr.
12 and Mrs. Watkins?

13 A I was working that night that something
14 happened but I didn't see it.

15 Q You were working --

16 A As a bartender.

17 Q At the bar?

18 A (Witness nods head affirmatively.)

19 Q Tell us what you observed, if anything, with
20 regard to these people that evening.

21 A Well, I was tending bar and it was quite
22 busy and Reggie and Carole were sitting at the end of the bar
23 and next thing I knew, Reggie asked me to go find Carole,
24 that she had left and so I went to the bathroom and looked for
25 her and found her in the employee's bathroom in the back crying

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(Transcript, Page 84)

so I brought them back to the bar.

Q Would you reel around this way so you can see and the jury can see at the same time. I'm showing you a diagram which purports to be a diagram of the Viking Club. Does it look like a fair representation to you?

A Uh-huh.

Q I've indicated the entrance to the Viking Room. Is that consistent with the rest of the drawing?

A Uh-huh.

Q At the time you were approached by Mr. Watkins as you testified to go find Carole or assist her or whatever, where were you standing approximately to the best of your recollection?

A I don't know. I worked this whole side of the bar.

Q Okay.

A So I could have been any place.

Q Anywhere this side of the bar?

A Uh-huh.

Q Didn't you say in the first part of your testimony something about being down near the end of the bar?

A No, Reggie.

Q Reggie was?

A He was sitting at the end of the bar and he called me.

(Transcript, Page 85)

1 Q Okay. Now, in working that side of the bar
2 and just in the period prior to when Mr. Watkins called you,
3 had you heard any loud voices or yelling and screaming between
4 any people?

5 A No, sir, I don't remember any loud --

6 Q You don't remember any?

7 A Unh-unh.

8 Q Was it a busy night at the club that night?

9 A Yes, very busy.

10 Q Were there people in most of the booths or --

11 A Uh-huh.

12 Q -- not so many or --

13 A Most of the booths and some were standing at
14 the bar.

15 Q -- standing?

16 A (Witness nods head affirmatively.)

17 Q After this request was made of you to go find
18 Carole, you say you did so and found her crying or whatever
19 and get past that stage subsequent to that time. Did you see
20 Mr. Preston talking with anyone else other than Mr. Watkins?

21 A At that particular time when I went to --

22 Q After that. Any time after that evening.

23 A I saw him talking over at the pool bar with
24 somebody but I don't remember who it was. It was either
25 Mr. Ruscito or Mr. Richardson.

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(Transcript, Page 86)

1 Q One or the other? Who's Mr. Richardson?

2 A He was the assistant manager.

3 Q Who's Mr. Ruscito?

4 A The manager.

5 Q Do you recall who was on duty that night?

6 A They both were.

7 Q They both were?

8 A As far as I know.

9 Q Was it their practice to be there together at
10 all times?

11 A Paul worked there quite a bit at night but
12 he'd leave, you know, and come back.

13 THE COURT: Which one is Paul?

14 THE WITNESS: He is the manager.

15 THE COURT: Mr. Ruscito?

16 THE WITNESS: Mr. Ruscito.

17

18 BY MR. INMAN:

19 Q Is this a particular time when he would come
20 back or just any time?

21 A Any time.

22 Q Now, you say you remember seeing Mr. Watkins
23 and Mrs. Watkins in the club on occasions while you were work-
24 ing before. Had you ever seen them behave in a rude or obnox-
25 ious manner?

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(Transcript, Page 87)

A. No.

Q When did you stop working at the Commodore Club?

A. About a year and a half ago.

Q A year and a half ago. Can you pin down like a month?

A. It was a year ago October.

Q I see. So it would be October of 1975 when you left there?

A. Right. '75, yes.

Q Did you between the time of this incident and the time that you left the employ of the Commodore Club, ever have any patrons of the Viking Room ask you about Carole and Reggie and if you knew anything about them?

A. No. There was a lot of people who commented on her clothing and stuff.

MR. INMAN: Okay. I have no further questions.

* * * *

THE COURT: Let's move along.

- - - - -

CROSS EXAMINATION

BY MR. PENNINGTON:

* * * *

Q What do you mean commented about her clothing?

A. She'd wear dungarees and sweatshirts in.

Q In other words, you heard complaints about her?

(Transcript, Page 88)

1 A Yes.

2 Q You heard complaints about Reggie?

3 A No.

4 Q If she said that you took her to the bathroom,
5 she'd be incorrect?

6 A Pardon?

7 Q If she said you took her to the bathroom after
8 this incident, she'd be incorrect?

9 A That's right. I didn't take her to the bath-
10 room, Phyllis did.

11 THE COURT: That's Mrs. Davis?

12 THE WITNESS: Mrs. Davis. I'm sorry.

13

14 BY MR. PENNINGTON:

15 Q Do you have any idea how much they'd had to
16 drink?

17 A No, sir. I couldn't tell you.

18 Q You didn't observe any of it?

19 A No, sir.

* * * *

20 MR. PENNINGTON: Okay. Thank you very much.

21 THE COURT: Next witness.

22 MR. INMAN: Give me a moment, Your Honor.

23 THE COURT: Gentlemen, we've got to the point
24 where we have right many witnesses, where we can deal
25 now just with essentials of the case rather than how

-99-

(Transcript, Page 89)

many seats around the bar and where obstructions going to the bar room are and everything. Everybody admits that, don't they?

MR. PENNINGTON: Yes, sir.

THE COURT: So try your case like you want to but I suggest to save time you call these witnesses and question them about the essentials and let's forget all the details. Next witness.

MR. INMAN: I have no further witnesses.

THE COURT: Plaintiff rests?

MR. INMAN: Plaintiff rests.

THE COURT: First witness.

MR. PENNINGTON: Your Honor, I have an argument I'd like to make.

MR. INMAN: Your Honor, I'm sorry. I missed a witness. Ann Culp.

THE COURT: Ann Culp.

- - - - -

ANN CULP, called as a witness on behalf of the plaintiffs, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. INMAN:

* * * *

Q Would you please state your name?

A I'm Ann Culp.

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A. CULP - DIRECT

(Transcript, Page 90)

1 Q Are you acquainted with Mr. Reginald Watkins?

2 A Yes, sir.

3 Q How long have you known him?

4 A I've known Mrs. Land about two and a half,
5 three years pretty much.

6 Q That's Mrs. Land. Now, Mrs. Watkins?

7 A Yes.

8 Q How about Mr. Watkins?

9 A I haven't known him that long, probably about
10 two years.

11 Q What, if anything, have you heard about any
12 incident that may have occurred between these two people and
13 Mr. Preston?

14 A I haven't heard very much. I wasn't there the
15 night that the incident occurred but I was told that there was
16 an incident -- a fighting incident and that Mrs. Land had
17 slapped Mr. Preston. But other than that, I haven't heard
18 very much about it. I did ask Mr. Miller -- Lloyd Miller if
19 it would be -- this was a while after the incident happened and
20 they were dismissed as members of the club, if it would be all
21 right for us to take any one of the four persons to the club
22 as our guests because we are members there and he said,
23 "Absolutely not," that none of them were allowed on the club
24 property and that's all that it was.

* * * *

25 MR. INMAN: I have no further questions.

(Transcript, Page 93)

DIRECT EXAMINATION

BY MR. PENNINGTON:

* * * *

Q State your name, sir.

A L. T. Lewis.

Q Where do you reside?

A 5920 McClure Road, Norfolk.

Q Do you know the defendant, Mr. Preston?

A Yes, sir.

Q Do you --

THE COURT: You just sit back. The microphone
will pick up what you have to say.

A (Continuing) I don't know them. I've seen
them before.

BY MR. PENNINGTON:

Q Mr. Lewis, were you with Mr. Preston on
March the 8th, 1975?

A If that's the time it was at the Commodore
Country Club, yes.

Q Could you tell us in your own words what
happened that evening that you observed?

A Well, we arrived there. I don't know, around
midnight and it was crowded and when we went in the door, we
turned to the right. The booths are on the right and the bar
was a horseshoe type bar. We went back to the end and it was

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(Transcript, Page 94)

1 two or three stools there vacant and some of the booths and
2 the lady stopped at the booth and I walked to the end where
3 there was a stool to sit on and was going to order something
4 to drink. Mrs. Preston was either behind me or to the side
5 of me and I guess the music stopped or the dance stopped or
6 something when she walked up to him and started hitting him
7 like this.

8 THE COURT: Who is she?

9 THE WITNESS: The lady there.

10 THE COURT: All right.

11 A. (Continuing) He said, "Lady, don't hit on me.
12 I don't know you." He said it twice. "Lady, don't hit on me.
13 I don't know you." About that time, he come up -- the gentle-
14 man there and --

15 THE COURT: Mr. Watkins?

16 A. (Continuing) Mr. Watkins said, "Don't talk
17 to her like that. She's a lady." He said that two or three
18 times and then we went and -- well, I don't think we went to
19 the booth. By that time, a table was open and we went over
20 to the table. We stayed a short time and my wife and I left.
21 I don't know what time Mr. Preston and the rest of them left.

22 Q You did observe who initiated that conversa-
23 tion?

24 A Yes. When she come up and was doing like this
25 hitting on him. He asked her -- he said, "Lady, don't hit on

(Transcript, Page 95)

1 me. I don't know you." He told her twice and then when he
2 come up and said that, "This is a lady you're talking to."
3 Mr. Preston said, "Well, Noble, all I want her to do is stop
4 hitting on me. I don't know her."

5 Q Was there any conversation between you and
6 anyone?

7 A No.

* * * *

8 MR. PENNINGTON: Answer this gentleman.

9 - - - - -

10 CROSS EXAMINATION

11 BY MR. INMAN:

* * * *

12 Q How long had you been at the club that
13 evening?

14 A Just a short time.

15 Q Did you come in before the band started
16 playing or after?

17 A The band was playing when we went in. I'm
18 pretty sure.

19 Q Would it be around 10:00 o'clock? Would that
20 be close?

21 A I think it was around midnight, as best I
22 remember.

23 Q Around midnight. Had you been any place
24 previous to the club?

25 A Yes.

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(Transcript, Page 96)

1 Q Had you been drinking?

2 A I had had two or three drinks, yes, in the
3 course of the evening.

4 Q I want to show you what purports to be a
5 diagram of the Viking Room. I'm holding it back here so the
6 jury can see. Does that look like a fair representation to
7 you, if I told you this was the entrance from the dining area.
8 This is a wall.

9 A The bar is sort of like a horseshoe and the
10 stools are about like this and the booths are here and there's
11 tables all through it. The dance area is over here.

12 Q All right, sir. Now, can you tell us where
13 you were when this thing occurred?

14 A In the last stool next to the kitchen door.
15 That's where I was.

16 Q That's where you were seated?

17 A That's where I was.

18 Q Mr. Watkins didn't raise his voice to anyone,
19 did he?

20 A He raised his voice when he was telling,
21 "That's a lady you're talking to."

22 Q Well, did this incident attract a crowd? Did
23 people come gathering around looking to see what happened?

24 A It happened so fast. It's been so long ago.
25 It was crowded in there anyway. It was a right large crowd in

(Transcript, Page 97)
the Viking Room.

1

2

Q Was Mr. Preston's garments torn in any way?

3

4

A No, not to my knowledge. It wasn't torn. I didn't examine his garments but --

5

6

Q Were you at the bar ordering a drink or sitting there drinking a drink?

7

A I was going to order a drink.

8

Q Were you standing or sitting?

9

A I had sat down. We were looking for either an open table which when one becomes available -- shortly after that, we went to the table.

11

12

13

Q Was the other people in your party standing around?

14

15

16

A Some of them could have been standing. Some of them sat down in the booths. Now, which one sat down, I don't remember exactly.

17

18

Q You do recall that Mrs. Land spoke something to you, did she not?

19

20

A Not to my knowledge. She didn't say anything to me. I don't remember her saying anything directly to me.

21

22

Q She could have said something but you didn't hear it because of the --

23

A I did not hear it.

24

Q -- because of the fact --

25

A She could have said something. I doubt it.

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(Transcript, Page 98)

I didn't hear it if she did.

* * * *

MR. INMAN: I don't have any further questions.

MR. PENNINGTON: I have two more questions,

Your Honor.

THE COURT: Go ahead.

- - - - -

REDIRECT EXAMINATION

BY MR. PENNINGTON:

* * * *

Q Exactly where was Mr. Preston during this?

A If I was sitting -- if I was turning this way to the door, he would be this way sitting here.

Q Was he standing or sitting?

A He was standing when I turned around to the stool like this. He was right here. When you come down the aisle, you'd be facing him.

Q Did you observe any conversation between the plaintiffs and Mr. Abrams?

THE COURT: Who's Mr. Abrams?

MR. PENNINGTON: He's a witness to be called.

THE COURT: Oh, I see.

A (Continuing) There could have been a conversation. There was too many people.

* * * *

MR. INMAN: I have one more question.

- - - - -

(Transcript, Page 99)

RECROSS EXAMINATION

BY MR. INMAN:

* * * *

Q Mr. Preston was facing the bar, was he not,
waiting for a drink?

A When I would be facing the bar, he would be
to my side. When I turned like this on the stool looking out
away from the kitchen door, he was right here.

Q Which direction was he facing the bar?

A On my left, he would be facing the stool
coming into --

THE COURT: Facing away from the bar.

A (Continuing) Well, the bar is here, he's
facing right down the bar.

* * * *

THE COURT: Right angle to it.

MR. INMAN: Thank you.

THE COURT: Do you have a short witness,
Mr. Pennington? Have you got much coming up?

MR. PENNINGTON: One about the same as the
past one. Willie Abrams.

THE COURT: All right.

- - - - -

WILLIE ABRAMS, called as a witness on behalf of the
defendant, having been first duly sworn, was examined and
testified as follows:

(Transcript, Page 100)

DIRECT EXAMINATION

BY MR. PENNINGTON:

* * * *

Q State your name, sir.

THE COURT: State your name, Mr. Abrams.

A (Continuing) Willie Abrams.

THE COURT: Tell him where he lives and that sort of thing. "You live at so-and-so, don't you?"

BY MR. PENNINGTON:

Q You live at 1426 Sullivan?

A Yes, sir.

Q Were you with the defendant on the night of March 8th, 1975?

A Yes.

Q Did you observe an incident that happened between the defendant and the plaintiffs sitting at that table?

A (Witness nods head affirmatively.)

Q Were you seated at a table near the bar at that time?

A No, sir.

Q Sir?

A No, sir.

Q Where were you, sir?

A At that time, I was at the head.

(Transcript, Page 101)

1 THE COURT: Bathroom?

2 MR. PENNINGTON: Bathroom.

3 THE COURT: Go ahead and lead him. These are
4 not essentials. Go ahead and lead. When you get to
5 the essentials of the case, you don't lead. Go
6 ahead and lead.

7

8 BY MR. PENNINGTON:

9 Q Did you observe Mrs. Land come up to the
10 defendant?

11 A Yes.

12 Q Did you observe her start hitting on him?

13 THE COURT: That's a merit. Ask him, "What
14 did she do?"

15

16 BY MR. PENNINGTON:

17 Q What did she do?

18 A Who did?

19 Q Mrs. Land.

20 A (Witness shakes head negatively.)

21 THE COURT: You don't know?

22 THE WITNESS: I don't know. I didn't see
23 anything like that.

24 BY MR. PENNINGTON:

25 Q Did you go up to the bar during this incident?

(Transcript, Page 102)

1 A Yes, and --

2 Q Go ahead, sir.

3 A I saw them up there, you know, having an
4 argument. I knew both of them and when I walked up there, I
5 said, "What's going on?" And Mr. Watkins, he took his arm
6 and pushed me up against the booth, then I went and sat down.

7 Q That's all you know?

8 A That's it.

* * * *

9 MR. PENNINGTON: Answer this gentleman.

10 - - - - -

11 CROSS EXAMINATION

12 BY MR. INMAN:

* * * *

13 Q Mr. Abrams, you didn't observe Mrs. Land do
14 anything rude at all to Mr. Preston, did you? That's what
15 you stated; is it not?

16 A Yes.

17 Q Mr. Watkins did not raise his voice, did he?
18 I mean, he didn't yell at anybody, did he?

19 A I can't say 'cause just when I came back from
20 the bathroom it was going on and I just walked up there and
21 that's what was going on. Then he just shoved me against the
22 booths and I went and sat down. That was it. That's all I
23 know. I didn't know what was --

24 Q He was having a discussion with Mr. Preston;
25 is that correct?

(Transcript, Page 103)

A It was three or four of them around there, so I can't say, but I assume that it was.

Q You've known Mr. Watkins for many years, have you not?

A Yes, sir.

Q You would certainly say that he is not the type of person who becomes rude and obnoxious in a social setting, would you? Wouldn't you say that's true?

A Can I say he did at that time, at that incident?

Q I'm talking about as a rule, as a general practice.

A No. I never have seen him.

THE COURT: Ever seen anything like that before?

BY MR. INMAN:

Q Ever seen anything like that before?

A No.

* * * *

MR. INMAN: I don't have any further questions.

THE COURT: All right. Ladies and gentlemen, this is lunch hour. I'll ask you to return a little before 2:00 o'clock and when you do, go right to the jury room and I admonish you not to discuss this case with anyone or let anyone discuss it with you

(Transcript, Page 104)

during the lunch hour. You may now be excused for lunch.

All right, gentlemen.

(Court was adjourned at 1:00 o'clock.)

(Court was reconvened at 2:00 o'clock.)

THE COURT: Let the jury in. Next witness.

MR. PENNINGTON: Mrs. Abrams.

- - - - -

ALICE ABRAMS, called as a witness on behalf of the defendant, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. PENNINGTON:

* * * *

Q State your name, please.

A Sir?

Q State your name, please.

A Alice Abrams.

Q Where do you live, Mrs. Abrams?

A 1426 Sullivan Drive.

Q You're the wife of the man who testified just before lunch?

A Yes, sir, Willie Abrams.

Q Did you have occasion to be present at the Commodore Country Club on March the 8th, 1975?

A Yes, sir, I was.

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(Transcript, Page 105)

Q You had been with the defendant and his wife earlier in the evening?

A Who?

THE COURT: Mr. Preston.

A (Continuing) Yes, sir.

BY MR. PENNINGTON:

Q Did you have an opportunity to observe anything unusual between Mr. Preston and the plaintiffs?

A Nothing except my husband was pushed and I got up from my booth.

Q Would you tell us a little what led up to that, what you observed?

A Sir, the only thing I know, I was sitting at my booth --

Q Where was your husband?

A My husband was up by the bar. I was sitting at the booth with Ruth Preston and Sue Lewis. We, all three, were sitting at the booth and I happened to look up and when I did, my husband was coming towards the bar -- coming towards the booth and I got up out of my seat and took a hold of him and brought him back to the booth where I was sitting.

Q Did you see who pushed him?

A No, sir, I didn't see who pushed him. Like I

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(Transcript, Page 106)

1 said, when I looked up, he was coming towards the booth and
2 before he had a chance to go back to the bar, I took a hold
3 of him and brought him to the booth where I was sitting.

4 Q Okay. Where was Mr. Preston at that time?

5 A Mr. Preston was still at the bar, sir.

6 Q Do you know where Mr. Lewis was?

7 A Mr. Lewis was at the bar.

8 Q Do you know where this lady or gentleman were?

9 A As far as I know, they were sitting at the bar.

10 I mean, they were sitting at the bar as we went in. I know
11 they were sitting at the bar theirselves when we went in.

* * * *

12 MR. PENNINGTON: Okay. Answer this gentle-
13 man.

14 MR. INMAN: I don't have any questions of
15 this witness.

16 THE COURT: Next witness.

17 MR. PENNINGTON: Mrs. Lewis.

18 - - - - -

19 ERNESTINE LEWIS, called as a witness on behalf of
20 the defendant, having been first duly sworn, was examined and
21 testified as follows:

22 DIRECT EXAMINATION

23 BY MR. PENNINGTON:

* * * *

24 Q State your name, please.

25 A Ernestine Lewis.

(Transcript, Page 107)

1 Q What's your address, Mrs. Lewis?

2 A 5920 McClure Road, Norfolk.

3 Q Did you have an opportunity to be in the
4 Fraternal Order of Police Commodore Country Club on March the
5 8th, 1975?

6 A Yes, I was.

7 Q In whose company were you?

8 A My husband and Mr. and Mrs. Preston.

9 Q Are you friends of the Prestons?

10 A Yes, I am. Yes, we were.

11 Q Had you been with them on other social occa-
12 sions before?

13 A Yes, I have.

14 Q How would you describe Mr. Preston's conduct?
15 How does he conduct himself on those occasions?

16 A Always without no question, always in good
17 conduct and always the best.

18 Q On March the 8th, did you observe anything
19 happen between Mr. Preston and this couple?

20 A Well, they came in with us. All of us came
21 in and we came in by the side of the room of the Viking Room
22 and we were all standing there waiting for a booth. When we
23 got our booth, we sat down.

24 Q Who's we?

25 A Mrs. Preston, Mrs. Abrams and myself sat down

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(Transcript, Page 108)
in the booth.

2 Q What happened then?

3 A We heard a commotion and we saw Mr. Preston
4 with a lady standing there and she had tapped him or shoved
5 him on the shoulder and I wasn't close enough -- I was right
6 behind -- right behind, I think Mrs. Preston. We were all
7 standing there when it all happened. We sat down in the
8 booth.

9 Q Yes, ma'am. Did you hear any conversation at
10 all?

11 A I heard Mr. Preston say, "Don't shove my
12 shoulder," or something to that nature.

13 Q Did you hear anyone else say anything?
14 Did you hear Mr. Watkins say anything?

15 A Not to my knowledge. It was happening so
16 fast and it's been so long, I really -- there was something
17 said, but as to what it was -- let me think. Well, he did --
18 now, repeat that. Something was said by a man but other than
19 Mr. Preston, I didn't hear anything other than that.

20 Q Did you see anything happen between Mr.
21 Watkins and Mr. Abrams?

22 A We were sitting in the booth and as we were
23 sitting in the booth, Mr. Abrams came back and was shoved
24 against the booth. When he did, he was pushed back against
25 the booth. We all looked up to see actually what was going on.

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(Transcript, Page 109)

1 Q Did you see who shoved him?

2 A To my knowledge --

3 THE COURT: The question is: Did you see
4 him shoved?

5 THE WITNESS: Yes, sir, I did.

6 THE COURT: All right. Go ahead, ma'am.

7 A (Continuing) Yes, sir, I did see him shoved
8 because I had been looking up at the time. All of us had been
9 watching what was going on there but we couldn't actually see
10 everything because people were standing in front of us.

11 Q Did you see who shoved him?

12 A Yes, I did.

13 Q Who was that?

14 A That gentleman right there.

15 * * * *
MR. PENNINGTON: Thank you. Answer this man.

16 - - - - -

17 CROSS EXAMINATION

18 BY MR. INMAN:

19 * * * *
20 Q Mrs. Lewis, would you kind of turn this way
21 so the jury can see this? This is a diagram which purports
22 to be the Viking Room at the Commodore Country Club and this
23 is designated as the entranceway from the dining room. Does
24 that look like a fair representation to you of the Viking
Room?

25 A Yes, it does.

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(Transcript, Page 110)

1 Q Were you seated in this booth?

2 A Yes, sir, this booth right here.

3 Q The second one down?

4 THE COURT: Put it a little closer to her so
5 she doesn't have to lean so far.

6 MR. INMAN: I'm sorry.

7 A (Continuing) Well, it's been so long. It's
8 either one of these two booths right here.

9 Q Okay.

10 A The place was crowded so it was either one of
11 these two. There were people going back and forth in this
12 area.

13 Q This is a kitchen door here.

14 A Right.

15 Q Is that correct? There were people not only
16 in booths and at the bar but going back and forth in between?

17 A Yes, there was people. We were sitting here
18 in these booths. Now, as to which booth it was, either this
19 one or this one, it's been so long, I don't know which booth
20 it was. Everything happened -- we sat down whichever booth
21 was empty.

22 Q Mr. Abrams was pushed up against the booth?

23 A Yes.

24 Q It wasn't the bar?

25 A He was pushed up against the booth.

(Transcript, Page 111)

1 Q If someone testified he was pushed up against
2 the bar, would that be incorrect?

3 A He was pushed up against the booth.

4 Q I just wanted to make it clear. Now, you
5 stated in answer to Mr. Pennington's question that someone
6 tapped or shoved Mr. Preston, but you couldn't see exactly
7 what it was; is that correct?

8 A I know it was a lady.

9 Q You know it was a lady?

10 A (Witness nods head affirmatively.)

11 Q What you saw was someone put a hand on a
12 shoulder, is that not correct?

13 A Well, when I looked up there, she was doing
14 more than that, putting her hand on his shoulder.

15 Q Where was Mr. Preston in relation to the
16 booth?

17 A My husband was sitting on the very last --
18 L. T. Lewis was sitting on the very last stool. Mr. Preston
19 was directly to my husband's right shoulder which would be
20 right behind him. Let me show you this one more time. This
21 is the stool that my husband was on. Mr. Preston was standing
22 about right there.

23 Q Let's presume that you were sitting in this
24 booth just for the sake of discussion.

25 A We were standing here waiting for this booth

-120-

(Transcript, Page 112)
to be empty.

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Q You were standing?

A Waiting for the booth to be emptied. When this booth was emptied, we sat down here but this was going on while we were standing right here.

Q I see.

A Before we sat down.

Q Were you in conversation with Mrs. Preston?

A We were just talking about the booth being emptied and standing right there.

Q I see.

A I don't think it was any conversation between us. We were standing there looking at each other.

Q You testified just previously in answer to Mr. Pennington's question, the only person you heard say anything was Mr. Preston; is that correct?

A Yes, I heard Mr. Preston say --

Q How long have you known the Prestons?

A Oh, five years.

Q Do you go out with them socially, frequently?

A Yes, we do.

* * * *

MR. INMAN: I have no further questions.

MR. PENNINGTON: I have one more question.

- - - - -

(Transcript, Page 113)

REDIRECT EXAMINATION

BY MR. PENNINGTON:

* * * *

Q Exactly what was this woman doing around
Mr. Preston?

A She was pulling at his coat and jerking at
his coat lapel up here. Jerking at his lapel.

* * * *

MR. PENNINGTON: Thank you. That's all I
have.

THE COURT: Next witness.

MR. PENNINGTON: Mrs. Preston.

- - - - -

RUTH PRESTON, called as a witness on behalf of the
defendant, having been first duly sworn, was examined and
testified as follows:

DIRECT EXAMINATION

BY MR. PENNINGTON:

* * * *

Q State your name, please.

A Ruth Preston.

Q You are Mr. Preston's wife?

A Yes, I am.

Q Where do you reside?

A 207 Sandpiper Drive in Portsmouth.

Q Mrs. Preston, were you in the Commodore
Country Club on March the 8th, 1975?

A Yes, I was.

(Transcript, Page 114)

1 Q Who were you with?

2 A I was with my husband, with L. T. Lewis,
3 Alice Abrams and Sue Lewis.

4 Q Did you observe anything unusual happen con-
5 cerning your husband that evening?

6 A Yes, I did.

7 Q Could you tell us about that, please?

8 A Well, we were sitting in the booth, Mrs. Lewis,
9 Mrs. Abrams and I, at the club and my husband and L. T. Lewis
10 were up at the bar and L. T. was sitting at the end of the
11 bar and my husband was standing up talking to him. In a few
12 minutes, Mrs. Land came up to where they were at.

13 Q Who's that, ma'am?

14 A This lady here.

15 THE COURT: Pointing to the lady, Mrs. Watkins.

16 Go ahead.

17

18 BY MR. PENNINGTON:

19 Q Go on.

20 A I heard him say, "Don't pull on my coat and
21 take your hands off of me." That's all I heard him say.
22 Then in a few minutes --

23 Q Did you observe her do anything?

24 A I saw her when she went up to him and put
25 her hand on him and pulled his coat.

(Transcript, Page 115)

1 Q What happened then, ma'am?

2 A Then in a few minutes, this man here --

3 Q Mr. Watkins.

4 A -- came up and he wanted to know what was
5 going on and I couldn't understand what he was saying but
6 then he started talking in a loud tone of voice and he used
7 some curse words.

8 Q What was your husband doing then?

9 A He was just standing there.

10 Q Where was Mr. Abrams at the time?

11 A He was at the booth standing beside the booth
12 where we were. The lady and he walked over to see what was
13 going on and when he walked up, this man here took his --

14 Q Mr. Watkins.

15 A Mr. Watkins took his arm and pushed him back
16 up against the booth where we were sitting.

17 Q What happened then?

18 A Well, then I just hung my head. I didn't
19 listen. I couldn't hear because the band was playing and
20 all I knew was Mr. Watkins was still talking in a loud tone
21 of voice but the band was playing and I just hung my head.

22 * * * *
MR. PENNINGTON: Thank you, ma'am. Answer
23 this gentleman.

24

25

(Transcript, Page 116)

CROSS EXAMINATION

BY MR. INMAN:

* * * *

Q. Mrs. Preston, I want to show you a diagram of what purports to be a drawing of the Commodore Country Club's Viking Room. If I told you this is the entranceway from the dining room into the Viking Room, does this appear to be a fair representation of the layout of the Viking Room?

A. Yes.

Q. Okay.

A. I guess it does, far as I know.

Q. Could you indicate where this incident took place?

A. We were sitting here. Mr. Lewis was sitting at the end of the counter and my husband was standing somewhere along here talking to Mr. Lewis.

Q. He was standing?

A. Yes, he was standing.

Q. Where would you indicate which booth it was you were in?

A. I think it was this one. It was either the first or second booth we were sitting in; the three ladies.

Q. The three ladies, yourself and Mrs. Lewis and --

A. Mrs. Abrams.

Q. Mrs. Abrams. What seat did you occupy? Which

(Transcript, Page 117)

1 side of the booth were you on?

2 A If I remember correctly, I was on this side.

3 Q Where was Mrs. Lewis?

4 A Mrs. Lewis and Mrs. Abrams were sitting
5 opposite me.

6 Q Sitting opposite you. You were sitting on
7 this side and the two of them were sitting over here?

8 A As far as I remember.

9 Q It was a pretty crowded night in there, was
10 it not, Mrs. Preston?

11 A Yes, it was.

12 Q A lot of people, not only sitting in booths
13 but walking around as well waiting, trying to get into
14 booths?

15 A I don't know about that. It was crowded when
16 we got there.

17 Q I see. I'm sure that since this litigation
18 has been going on that you had a number of conversations with
19 various people including your husband about what transpired
20 that evening, have you not?

21 A Well, I don't know what you mean.

22 THE COURT: Did you-all talk a lot about what
23 happened?

24 BY MR. INMAN:

25 Q Have you-all talked a lot about what happened?

(Transcript, Page 118)

A No. I have to my husband. We talked about it a few times but not a lot.

* * * *

MR. INMAN: I have no further questions.

MR. PENNINGTON: I have no further questions.

Mr. Ralph Preston.

- - - - -

RALPH EARLE PRESTON, the defendant, called on his own behalf, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. PENNINGTON:

* * * *

Q State your name, sir.

A Ralph Earle Preston.

Q How old are you, sir?

A Forty-six.

Q Where are you employed, Mr. Preston?

A I am a technical representative for that A. M. Corporation which is an autograph corporation.

Q How long have you been so employed? How long have you had that job?

A About eight, ten years.

Q Mr. Preston, you were in the Commodore Country Club on March the 8th, 1975, weren't you?

A Yes, sir, I was.

Q Why don't you tell us in your own words exactly

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1 (Transcript, Page 119)
2 what happened on that date?

3 A Well, the whole group of us went out there
4 between 11:30 and 12:00 that night because we had been down
5 at the Khedive Temple that day and we decided we wanted to
6 go out to the Commodore Country Club for a little bit. When
7 we got there all the tables were full and I asked Sally
8 Lippard if she would hold a table.

9 Q She is a waitress?

10 A She was one of the waitresses there. So in
11 the meantime, we had to find a place for our ladies to sit and
12 there was a booth open but it wouldn't hold no six people, so
13 we seated our ladies and L. T. Lewis proceeded up and took
14 the No. 1 stool which has been pointed up here several times
15 today, and I walked up there and was talking to him -- talking
16 to L. T. Lewis.

17 Q Were you standing or sitting?

18 A I was standing. Then the next thing I knew,
19 I was standing there talking, I feel something hit my shoulder
20 and I hear -- at that time, I heard a female voice say, "That
21 goes for you, too." I turned around and looked and at that
22 time, it was Mrs. Land.

23 Q What happened then?

24 A So I just turned my back on her and the next
25 thing, she was pulling and tugging so then I told her once
to take her hands off of me, then she kept on pulling and

(Transcript, Page 120)

1 tugging some more. Then I did raise my voice and as you can
2 tell now, if I raise my voice, I've got a good deep, sharp
3 voice. About that time, the next thing I knew, Mr. Watkins
4 came a-charging up there and informed me I had insulted his
5 lady. So at the time when I tried to talk to him, all he
6 could do -- is profanity permitted, Your Honor?

7 THE COURT: Yes, sir. We've got to have --

8 A. (Continuing) All he could do was tell me to
9 shut my God damn mouth and every time I started to say some-
10 thing, he would come out with the same reply. So finally,
11 since he's brought it out in here, I called him Noble trying
12 to cool him off and it was still the same. About that time,
13 Willie Abrams which was a guest of mine in the club that
14 particular evening knew both of us and came walking up there
15 to see what was going on and the next thing I knew, Reggie
16 sticks his arm out and Willie Abrams is going flying over
17 into the booth.

18 Q So what did you do then?

19 A So then I finally maneuvered my way out of
20 there and it's been stated that we shook hands. If we shook
21 hands, I don't ever recall it. After the club closed that
22 night, I talked to Mr. Paul Ruscito who at that time was club
23 manager. At this time, I do not recall if it was Paul Ruscito
24 or one of the board members that requested my presence to
25 appear before the board.

(Transcript, Page 121)

1 Q Did you go before the board?

2 A I went before the board and I told the story
3 that I'm sitting under oath and told them.

4 Q Why did you go before the board?

5 THE COURT: Because they asked him to.

6 A (Continuing) I don't recall if it was Mr.
7 Ruscito or whether it was one of the board members --

8 THE COURT: They asked him to appear.

9 A (Continuing) They asked me to come before
10 the board and explain my side of what happened that night
11 and that's just what I done.

12

13 BY MR. PENNINGTON:

14 Q Had you known either one of these people
15 before?

16 A No, not personally. No.

17 Q Had you ever had any conversation with them
18 at all?

19 A No.

20 Q Did you harbor any ill will towards them at
21 all?

22 A Neither one.

23 Q You appeared before the board because you were
24 asked to?

25 A Because I was asked and I thought it was my

(Transcript, Page 122)

1 duty to the club to uphold the honor and the type of club we
2 want to let it be known for before something was brought
3 against me and then I would be in the opposite chair instead
4 of the one I'm in now.

* * * *

5 MR. PENNINGTON: Answer this gentleman.

- - - - -

7 CROSS EXAMINATION

8 BY MR. INMAN:

* * * *

9 Q Mr. Preston, if the truth be known, what
10 really happened is that Mrs. Land didn't conduct herself in
11 any rude fashion toward you but in fact, you knew that you
12 conducted yourself in a rude fashion and you went to Mr.
13 Ruscito to see if you couldn't make sure everything got
14 covered so there wouldn't be anything to come out of it; isn't
15 that correct?

16 A No it is not correct.

17 Q You arrived at the club at 11:00 o'clock,
18 12:00 o'clock?

19 A Between 11:30 and 12:00.

20 Q Prior to that time, you had been at another
21 function; had you not?

22 A I had.

23 Q How many drinks had you had that evening?

24 A Maybe three, four, real light highballs
25 because I cannot drink heavy 'cause of health situations.

(Transcript, Page 123)

1 Q What time did the other function begin?

2 A At 9:00 o'clock.

3 Q Had you gone out to dinner before that?

4 A I had dinner at home.

5 Q Did you have a conversation with Mr. Ruscito
6 that evening?

7 A I did.

8 Q How long after this incident occurred?

9 A I assumed somewhere around 2:00 a.m. because
10 the club usually closes about 1:30, 2:00 o'clock.

11 Q Did you talk to Mr. Richardson?

12 A I don't recall talking to him.

13 Q He's the assistant club manager.

14 A I don't recall talking to him, no.

15 Q Did you tell Mr. Ruscito the same thing that
16 you told the board?

17 A I told the same story, yes, sir.

18 Q Was it at that time that Mr. Ruscito made
19 some request of you about making a formal complaint?

20 A As I have stated previous, I don't recall if
21 it was him or one of the other board members, but anyway, I
22 received a telephone call to let me know when the board was
23 meeting.

* * * *

24 MR. INMAN: I don't have any further questions.

25 MR. PENNINGTON: Defense rests.